रजिस्ट्री सं॰ डी॰ एल॰—(एन)04/0007/2003—05 REGISTERED NO. DL—(N)04/0007/2003—05

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II — खण्ड 2
PART II — Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं॰ 4] नई दिल्ली, शुक्रवार, फरवरी 28, 2003 / फाल्गुन 9, 1924
No. 4] NEW DELHI, FRIDAY, FEBRUARY 28, 2003 / PHALGUNA 9, 1924

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on 28 February, 2003.

BILL NO. 8 OF 2003

A Bill to give effect to the financial proposals of the Central Government for the financial year 2003-2004.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (*1*) This Act may be called the Finance Act, 2003.

(*2*) Save as otherwise provided in this Act, sections 2 to 96 [except clause (*b*) of section 85] shall be deemed to have come into force on the 1st day of April, 2003.

CHAPTER II

RATES OF INCOME-TAX

Income-tax.

2. (*1*) Subject to the provisions of sub-section (*2*) and (*3*), for the assessment year commencing on the 1st day of April, 2003 income-tax shall be charged at the rates specified in Part I of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act) shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein.

43 of 1961.

(*2*) In the cases to which Paragraph A of Part I of the First Schedule applies, where the assessee has, in the previous year, any net agricultural income exceeding five thousand rupees, in addition to total income, and the total income exceeds fifty thousand rupees, then,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging income-tax in respect of the total income; and

(*b*) the income-tax chargeable shall be calculated as follows:—

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income as so increased were the total income;

(*iii*) the amount of income-tax determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax in respect of the total income:

Provided that the amount of income-tax so arrived at, as reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided in that Paragraph and the sum so arrived at shall be the income-tax in respect of the total income.

(*3*) In cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, the tax chargeable shall be determined as provided in that Chapter or that section, and with reference to the rates imposed by sub-section(*1*) or the rates as specified in that Chapter or section, as the case may be:

Provided that the amount of income-tax computed in accordance with the provisions of section 112 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A,B,C,D or E, as the case may be, of Part I of the First Schedule:

Provided further that the amount of income-tax computed in accordance with the provisions of section 113 shall be increased by a surcharge for purposes of the Union as provided in Paragraph A, B, C, D, or E, as the case may be, of Part III of the First Schedule of the finance Act of the year in which the search is initiated under section 132, or requisition is made under section 132A of the Income-tax Act:

Provided also that in respect of any income chargeable to tax under sections 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115BBB, 115E and 115JB of the Income-tax Act, the amount of income-tax computed under this sub-section shall be increased by a surcharge for purposes of the Union, calculated at the rate of five per cent. of such income-tax.

(*4*) In cases in which tax has to be charged and paid under section 115-O or sub-section (*2*) of section 115R of the Income-tax Act, the tax shall be charged and paid at the rate as specified in those sections and shall be increased by a surhcarge for purposes of the Union, calculated at the rate of two and one-half per cent. of such tax.

(*5*) In cases in which tax has to be deducted under sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, at the rates in force, the deductions shall be made

at the rates specified in Part II of the First Schedule and shall be increased, by a surcharge for purposes of the Union, calculated in each case, in the manner provided therein.

(*6*) In cases in which tax has to be deducted under sections 194C, 194E, 194EE, 194F, 194G, 194H, 194-I, 194-J, 196B, 196C and 196D of the Income-tax Act, the deductions shall be made at the rates specified in those sections and shall be increased by a surcharge for purposes of the Union, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds rupees eight hundred and fifty thousand rupees;

(*b*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax;

(*c*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(*7*) In cases in which tax has to be collected under the proviso to section 194B of the Income-tax Act, the collection shall be made at the rates specified in Part II of the First Schedule, and shall be increased, by a surcharge for purposes of the Union, calculated in the manner provided therein.

(*8*) In cases in which tax has to be collected under section 206C of the Income-tax Act, the collection shall be made at the rates specified in that section and shall be increased by a surcharge for purposes of the Union, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the amount or the aggregate of such amounts collected and subject to the collection exceeds rupees eight hundred and fifty thousand rupees;

(*b*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax;

(*c*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(*9*) Subject to the provisions of sub-section (*10*), in cases in which income-tax has to be charged under sub-section (*4*) of section 172 or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" shall be so charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act shall be increased by a surcharge for purposes of the Union calculated in each case in the manner provided therein:

Provided that in cases to which the provisions of Chapter XII or Chapter XII-A or section 115JB or sub-section (*1A*) of section 161 or section 164 or section 164A or section 167B of the Income-tax Act apply, "advance tax" shall be computed with reference to the rates imposed by this sub-section or the rates as specified in that Chapter or section, as the case may be:

Provided further that the amount of "advance tax" computed in accordance with the provisions of section 112 of the Income-tax Act shall be increased by a surcharge for purposes of the Union as provided in Paragraph, A, B, C, D, or E, as the case may be, or Part III of the First Schedule:

Provided also that in respect of any income chargeable to tax under sections, 115A,

115AB, 115AC, 115ACA, 115AD, 115B, 115BB, 115BBA, 115E and 115JB of the Income-tax Act, "advance tax" computed under the first proviso shall be increased by a surcharge for purpose of the Union, calculated,—

(*a*) in the case of every individual, Hindu undivided family, association of persons and body of individuals, whether incorporated or not, at the rate of ten per cent of "advance tax" where the total income exceeds eight hundred and fifty thousand rupees;

(*b*) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such "advance tax";

(*c*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent, of such "advance tax".

(*10*) In cases to which, Paragraph A of Part III of the First Schedule applies, where the assesee has, in the previous year or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any net agricultural income exceeding five thousand rupees, in addition to total income and the total income exceeds fifty thousand rupees, then, in charging income-tax under sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or in computing the "advance tax" payable under Chapter XVII-C of the said Act, at the rate or rates in force,—

(*a*) the net agricultural income shall be taken into account, in the manner provided in clause (*b*) [that is to say, as if the net agricultural income were comprised in the total income after the first fifty thousand rupees of the total income but without being liable to tax], only for the purpose of charging or computing such income tax, or, as the case may be, "advance tax" in respect of the total income; and

(*b*) such income-tax or as the case may be, "advance tax", shall be so charged or computed as follows:-

(*i*) the total income and the net agricultural income shall be aggregated and the amount of income-tax or "advance tax" shall be determined in respect of the aggregate income at the rates specified in the said Paragraph A, as if such aggregate income were the total income;

(*ii*) the net agricultural income shall be increased by a sum of fifty thousand rupees, and the amount of income-tax or "advance tax" shall be determined in respect of the net agricultural income as so increased at the rates specified in the said Paragraph A, as if the net agricultural income were the total income;

(*iii*) the amount of income-tax or "advance tax" determined in accordance with sub-clause (*i*) shall be reduced by the amount of income-tax or, as the case may be "advance tax" determined in accordance with sub-clause (*ii*) and the sum so arrived at shall be the income-tax or, as the case may be "advance-tax" in respect of the total income:

Provided that the amount of income-tax or "advance tax" so arrived at, as reduced by the rebate of income-tax calculated under Chapter VIII-A of the said Act, shall be increased by a surcharge for purpose of the Union calculated in each case, in the manner provided therein.

(*11*) For the purposes of this section and the First Schedule,—

(*a*) "domestic company" means an Indian company or any other company which, in respect of its income liable to income-tax under the Income-tax Act for the assessment year commencing on the 1st day or April, 2003, has made the prescribed arrangements for the declaration and payment within India of the dividends (including dividends on preference shares) payable out of such income;

(*b*) "insurance commission" means any remuneration or reward, whether by way of commission or otherwise, for soliciting or procuring insurance business (including business relating to the continuance, renewal or revival of policies of insurance);

(*c*) "net agricultural income", in relation to a person, means the total amount of agricultural income, from whatever source derived, of that person computed in accordance with the rules contained in Part IV of the First Schedule;

(*d*) all other words and expressions used in this section and the First Schedule but not defined in this sub-section and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

CHAPTER III

DIRECT TAXES

Income-tax

Amendment of section 2.

3. In section 2 of the Income-tax Act,—

(a) in clause (*24*), in sub-clause (*xii*), for the word, brackets and figures "clause (*vii*)", the word, brackets, figure and letter "clause (*va*)" shall be substituted;

(b) in clause (*42*A), in *Explanation 1*, in clause (*i*), after sub-clause *(g)*, the following sub-clauses shall be inserted with effect from the 1st day of April, 2004, namely:—

"*(h)* in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause *(xiii)* of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;

(*ha*) in the case of a capital asset, being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause (*xiii*) of section 47, there shall be included the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation;".

Amendment of section 6.

4. In section 6 of the Income-tax Act, for clause (*6*), the following clause shall be substituted with effect from the 1st day of April, 2004 namely:—

'(6) A person is said to be "not ordinarily resident" in India in any previous year if such person is—

(*a*) an individual who has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less; or

(*b*) a Hindu undivided family whose manager has been a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less.'.

Amendment of section 9.

5. In section 9 of the Income-tax Act, in sub-section (*1*), in clause (*i*), the existing *Explanation* shall be numbered as *Explanation 1* thereof and after *Explanation 1* as so numbered, the following *Explanations* shall be inserted with effect from the 1st day of April, 2004, namely:—

'Explanation 2.—For the removal of doubts, it is hereby declared that "business connection" shall include any business activity carried out through a person who, acting on behalf of the non-resident,—

(*a*) has and habitually exercises in India, an authority, to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods or merchandise for the non-resident; or

(*b*) has no such authority, but habitually maintains in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(*c*) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-resident controlling, controlled by, or subject to the same common control, as that non-resident:

Provided that such business connection shall not include any business activity carried out through a broker, general commission agent or any other agent having an independent status, if such broker, general commission agent or any other agent having an independent status is acting in the ordinary course of his business.

Explanation 3.—For the purposes of the foregoing proviso, a broker, general commission agent or any other agent (hereafter in this section referred to as the commission agent) shall be deemed to have an independent status where such commission agent does not work mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control as that non-resident.".

Amendment of section 10.

6. In section 10 of the Income-tax Act,—

(*a*) in clause (*6C*), for the words, "by way of fees", the words "by way of royalty or fees" shall be substituted with effect from the 1st day of April, 2004;

(*b*) in clause (*10C*), with effect from the 1st day of April, 2004,—

(*i*) in the opening portion, for the words "any amount received by an employee of", the words "any amount received or receivable by an employee of" shall be substituted;

(*ii*) for the words "at the time of his voluntary retirement", the words "on his voluntary retirement" shall be substituted;

(*c*) for clause (*10D*), the following shall be substituted with effect from the 1st day of April, 2004, namely:—

'(*10D*) any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy, other than—

(*a*) any sum received under sub-section (*3*) of section 80DD or sub-section (*3*) of section 80DDA; or

(*b*) any sum received under a Keyman insurance policy; or

(*c*) any sum received under an insurance policy in respct of which the premium paid in any of the years during the term of the policy exceeds twenty per cent, of the actual capital sum assured:

Provided that the provisions of this sub-clause shall not apply to any sum received on the death of a person:

Provided further that for the purpose of calculating the actual capital sum assured under this sub-clause, effect shall be given to the *Explanation* to sub-section (*2A*) of section 88.

Explanation.—For the purposes of this clause, "Keyman insurance policy" means a life insurance policy taken by a person on the life of another person who is or was the employee of the firstmentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person;

(*d*) in clause (*15*), in sub-clause (*iv*), in item (g), for the words "a loan agreement approved by the Central Government", the words, figures and letters "a loan agreement approved by the Central Government before the 1st day of June, 2003" shall be substituted with effect from the 1st day of April, 2004;

(*e*) in clause (*23BBD*), for the words, figures and letters "three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004," words, figures and letters "seven previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2008" shall be substituted with effect from the 1st day of April, 2004;

(*f*) in clause (*23D*), in the opening portion, for the words "any income of", the words, figures and letter "subject to the provisions of Chapter XII-E, any income of" shall be substituted with effect from the 1st day of April, 2004;

(*g*) in clause (*23EB*), for the words " Credit Guarantee Fund Trust for Small Scale Industries", the words "Credit Guarantee Fund Trust for Small Industries" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(*h*) in clause (*23FA*), for the word "dividends", the words, figures and letter "dividends, other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004;

(*i*) in clause (*23G*), —

(*i*) for the word "dividends", the words, figures and letter "dividends, other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004;

(*ii*) after the words, brackets, figures and letters "housing project referred to in sub-section (*10*) of section 80-IB" the words " or a hotel project or a hospital project" shall be inserted with effect from the 1st day of April, 2004;

(*iii*) in Explanation 1,—

(*A*) in clause (a), for the portion beginning with the words "in the business of" and ending with the words "any infrastructure facility", the words "in the business referred to in this clause" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(*B*) in clause (b), for the portion beginning with the words "in the business of" and ending with the words "any infrastructure facility", the words "in the business referred to in this clause" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(*C*) after clause (*f*), the following clauses shall be inserted with effect from the 1st day of April, 2004, namely:

'(*g*) "hotel project" means a project for cosntructing a hotel of not less than three-star category as classified by the Central Government;

(*h*) "hospital project" menas a project for constructing a hospital with at least one hundred beds for patients';

(*j*) after clause (*26BB*), the following shall be inserted with effect from the 1st day of April, 2004, namely:—

'(*26 BBB*) any income of a corporation established by a Central State or Provincial Act for the welfare and economic upliftment of ex-servicement being the citizens of India.

Explanation.—For the purposes of the clause, "ex-servicemen" means a person who has served in any rank, whether as combatant or non-combatant, in the armed forces of the Union or armed forces to the Indian States before the commencement of the Constitution (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a decesed or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother, widowed daughter and widowed sister, wholly dependant upon such ex-serviceman immediately before his death or incapacitation;';

(*k*) after clause (*32*), the following clause shall be inserted, namely:—

"(*33*) any income arising from the transfer of a capital asset, being a unit of the Unit Scheme, 1964 referred to in Schedule 1 to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 and where the transfer of such asset takes place on or after the 1st day of April, 2002;"; 58 of 2002.

(*l*) after clause (*33*) as so inserted, the following clauses shall be inserted with effect from the 1st day of April, 2004, namely:—

'(*34*) any income by way of dividends referred to in section 115-O;

(*35*) any income by way of,—

(*a*) income received in respect of the units of a Mutual Fund specified under clause (*23D*); or

(*b*) income received in respect of units from the Administrator of the specified undertakings; or

(*c*) income received in respect of Units from the specified company:

Provided that this clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertakings or of the specified company or of a mutual fund, as the case may be.

Explanation.—For the purposes of this clause,—

(*a*) "Administrator" means the Administrator as referred to in clause (*a*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(*b*) "Specified company" means a company as referred to in clause (*h*) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002; 58 of 2002.

(*36*) any income arising from the transfer of a long-term capital asset, being equity share in a company listed in a recognised stock exchange in India and acquired on or after the 1st day of March, 2003 but before the 1st day of March, 2004.'.

Amendment of section 10A.

7. In section 10A of the Income-tax Act,—

(*a*) in sub-section (*4*), for the words brackets and figure "sub-section (*1*)", the words, brackers, figures and letter "sub-sections (*1*) and (*1A*)" shall be substituted;

(*b*) in sub-section (*5*), for the word, brackets and figure "sub-sectrion (*1*)", the words, "this section" shall be substituted;

(*c*) after sub-section (*7*), the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely:—

"(*7A*) Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger,—

(*a*) no deduction shall be admissible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(*b*) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.";

(c) sub-sections *(9)* and *(9A)* shall be omitted with effect from the 1st day of April, 2004;

(d) Explanation 1 shall be omitted with effect from the 1st day of April, 2004;

(e) after *Explanation* 3, the following Explanation shall be inserted at the end with effect from the 1st day of April, 2004, namely:—

'*Explanation 4*.—For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.'

Amendment of section 10B.

8. In section 10B of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) after sub-section *(7)*, the following sub-section shall be inserted, namely:—

"*(7A)* Where any undertaking of an Indian company which is entitled to the deduction under this section is transferred, before the expiry of the period specified in this section, to another Indian company in a scheme of amalgamation or demerger—

(a) no deduction shall be admisible under this section to the amalgamating or the demerged company for the previous year in which the amalgamation or the demerger takes place; and

(b) the provisions of this section shall, as far as may be, apply to the amalgamated or the resulting company as they would have applied to the amalgamating or the demerged company if the amalgamation or demerger had not taken place.";

(b) sub-sections (9) and (9A) shall be omitted;

(c) *Explanation* 1 shall be omitted;

(d) after *Explanation 3*, the following Explanation shall be inserted at the end, namely:—

'*Explanation 4*.—For the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.'

Amendment of section 10C.

9. In section 10C of the Income-tax, after sub-section *(6)* and before the Explanation, the following proviso shall be inserted with effect from the 1st day of April, 2004, namely:—

"Provided that no deduction under this section shall be allowed to any undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years."

Amendment of section 11.

10. In section 11 of the Income-tax Act, in sub-section *(3A)*, after the proviso, the following proviso shall be inserted, namely:—

"Provided further that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause *(b)* of sub-section *(2)*, is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause *(d)* of sub-section *(3)* in the year in which such trust or institution was dissolved.".

Amendment of section 16.

11. In section 16 of the Income-tax Act, for clause *(I)*, the following clause shall be substituted with effect from the 1st day of April, 2004, namely:—

"*(i)* in the case of an assessee whose income from salary, before allowing a deduction under this clause,—

(A) does not exceed five lakh rupees, a deduction of a sum equal to forty per cent. of the salary or thirty thousand rupees, whichever is less;

(B) exceeds five lakh rupees, a deduction of a sum of twenty thousand rupees;".

Amendment of section 30.

12. In section 30 of the Income-tax Act, after clause (c), the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of the cost of repairs referred to in sub-clause *(i)*, and the amount paid on account of current repairs referred to in sub-clause *(ii)*, of clause (*a*), shall not include any expenditure in the nature of capital expenditure.".

Amendment of section 31.

13. In section 31 of the Income-tax Act, after clause *(ii)*, the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.".

Amendment of section 33AB.

14. In section 33AB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in the marginal heading, after the word "account", the words "and coffee development account" shall be inserted;

(b) for the words "Tea Deposit Account", wherever they occur, the words "Deposit Account" shall be substituted;

(c) in sub-section *(1)*,—

(i) in the opening portion,—

(*A*) for the words "growing and manufacturing tea", the words "growing and manufacturing tea or coffee" shall be substituted;

(B) for the words "furnishing the return of his income", the words "the due date of furnishing the return of his income" shall be substituted;

(ii) in clause *(a)*, for the words "approved in this behalf by the Tea Board", the words "approved in this behalf by the Tea Board or the Coffee Board" shall be substituted;

(iii) in clause *(b)*, for the portion beginning with the words "deposited any amount" and ending with the words "approval of the Central Government,", the following shall be substituted, namely:—

"deposited any amount in an account (hereafter in this section referred to as the Deposit Account) opened by the assessee in accordance with, and

for the purposes specified in, a scheme framed by the Tea Board or the Coffee Board, as the case may be (hereafter in this section referred to as the deposit scheme), with the previous approval of the Central Govemment,";

(d) in sub-section *(4)*, in the opening portion, after the words, brackets and figure " no deduction under sub-section *(1)* shall be allowed", the words "to the assessee carrying on business of growing and manufacturing tea in India" shall be inserted;

(e) after sub-section *(4)*, the following sub-section shall be inserted, namely:—

'*(4A)* Notwithstanding anything contained in sub-section *(3)*, where any amount standing to the credit of the assessee, carrying on business of growing and manufacturing coffee in India in the special account or in the Deposit Account, is released during any previous year by the National Bank or withdrawn by the assessee from the Deposit Account, and such amount is utilised for the purchase of—

(a) any machinery or plant to be installed in any office premises or residential accommodation, including any accommodation in the nature of a guest-house;

(b) any office appliances (not being computers);

(c) any machinery or plant, the whole of the actual cost of which is allowed as a deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any one previous year;

(d) any new machinery or plant to be installed in an industrial undertaking for the purposes of business of construction, manufacture or production of any article or thing specified in the list in the Eleventh Schedule,

the whole of such amount so utilised shall be deemed to be the profits and gains of business of that previous year and shall accordingly be chargeable to income-tax as the income of that previous year.';

(f) in the *Explanation* occurring at the end, for clause *(a)*, the following clauses shall be substituted, namely:—

'*(a)* "Coffee Board" means the Coffee Board consituted under section 4 of the Coffee Act, 1942; 7 of 1942.

(aa) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;'. 61 of 1981.

Amendment of section 36.

15. In section 36 of the Income-tax Act, in sub-section *(1)*,—

(a) in clause (*iii*) and before the *Explanation*, the following proviso shall be inserted with effect from the 1st day of April, 2004, namely:—

"Provided that any amount of the interest paid, in respect of capital borrowed for acquisition of new asset for extension of existing business or profession (whether capitalised in the books of account or not); for any period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use, shall not be allowed as deduction.";

(b) in clause (*viia*), in sub-clause *(a)*, after the second proviso and before the *Explanation*, the following provisos shall be inserted with effect from the 1st day of April, 2004, namely:—

'Provided also that a scheduled bank or a non-scheduled bank referred to in this sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government:

Provided also that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession";

(*c*) in clause (x), for the words, brackets, figures and letter "any fund specified under clause (*23E*) of section 10", the words "any Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately" shall be substituted;

(*d*) after the *Explanation* below clause (*xi*), the following clause shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2002, namely:—

"(*xii*) any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, constituted or established by a Central, State or Provincial Act for the objects and purposes authorised by the Act under which such corporation or body corporate was constituted or established.".

Amendment of section 40.

16. In section 40 of the Income-tax Act, in clause (*a*), with effect from the 1st day of April, 2004,—

(*a*) for sub-clause (*i*), the following sub-clause shall be substituted, namely:—

'(*i*) any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under this Act, which is payable,—

(*A*) outside India; or

(*B*) in India to a non-resident, not being a company or to a foreign company, on which tax has not been deducted or, after deduction, has not been paid under Chapter XVII-B:

Provided that where in respect of any such sum, tax has been deducted under Chapter XVII-B and paid in any subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been deducted and paid:

Provided further that where in respect of any such sum, tax has been deducted under Chapter XVII-B and paid before the expiry of the time prescribed under sub-section (*1*) of section 200 in the subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which the liability to pay such sum was incurred.

Explanation.—For the purposes of this sub-clause,—

(*A*) "royalty" shall have the same meaning as in *Explanation* 2 to clause (*vi*) of sub-section (*1*) of section 9;

(*B*) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause *(vii)* of sub-section *(1)* of section 9;';

(b) for sub-clause *(iii)*, the following sub-clause shall be substituted, namely:—

'*(iii)* any payment which is chargeable under the head "Salaries", if it is payable—

(A) outside India; or

(B) to a non-resident,

and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B;'.

Amendment of section 43.

17. In section 43 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause (3), after the words "but does not include tea bushes or livestock", the words "or buildings or furniture and fittings" shall be inserted;

(b) in clause (6), in *Explanation 2B,* the words "as appearing in the books of account" shall be omitted.

Amendmeot of section 43B.

18. In section 43B of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause *(e),*—

(i) for the words "term loan", the words "loan or advances" shall be substituted;

(ii) for the words "such loan", the words "such loan or advances" shall be substituted;

(b) in the first proviso, the words, brackets and letters "referred to in clause *(a)* or clause *(c)* or clause *(d)* or clause *(e)* or clause *(f)*" shall be omitted;

(c) the second proviso shall be omitted.

Amendmeot of section 44AA.

19. In section 44AA of the Income-tax Act, in sub-section *(2),* in clause *(iii)* after the word, figures and letters "section 44AF", the words, figures and letters "or section 44BB or section 44BBB" shall be inserted with effect from the 1st day of April, 2004.

Amendment of section 44AB.

20. In section 44AB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause *(c),* after the word, figures and letters "section 44AF", the words, figures and letters "or section 44BB or section 44BBB" shall be inserted;

(b) in the first proviso, for the words, figures and letters "section 44BB or section 44BBA or section 44BBB", the word, figures and letters "section 44BBA" shall be substituted.

Ameodment of section 44AE.

21. In section 44AE of the Income-tax Act, in sub-section *(1),* after the words "who owns not more than ten goods carriages", the words "at any time during the previous year" shall be inserted with effect from the 1st day of April, 2004.

Amendment of section 44BB.

22. In section 44BB of the Income-tax Act, after sub-section *(2)* and before the *Explanation,* the following sub-section shall be inserted with effect from the 1st day of April, 2004, namely:—

"*(3)* Notwithstanding anything contained in sub-section *(1),* an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section *(2)* of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-Section *(3)* of section 143 and determine the sum payable by, or refundable to, the assessee.".

Amendmeot of section 44BBB.

23. In section 44BBB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) the existing section shall be numbered as sub-section *(1)* thereof and in sub-section *(1)* as so numbered, the words "and financed under any international aid programme" shall be omitted;

(b) after sub-section *(1)* as so numbered, the following sub-section shall be inserted, namely:—

"*(2)* Notwithstanding anything contained in sub-section *(1)*, an assessee may claim lower profits and gains than the profits and gains specified in that sub-section, if he keeps and maintains such books of account and other documents as required under sub-section *(2)* of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-Section *(3)* of section 143 and determine the sum payable by, or refundable to, the assessee.".

Amendment of section 44D.

24. In section 44D of the Income-tax Act, in clause *(b)*, after the words, figures and letters "after the 31st day of March, 1976", the words, figures and letters "but before the 1st day of April, 2003" shall be inserted with effect from the 1st day of April, 2004.

Insertion of new section 44DA.

Special provision for computing income by way of royalties, etc., in case of non-residents.

25. After section 44D of of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

'44DA. *(1)* The income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of this Act:

Provided that no deduction shall be allowed,—

(i) in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or

(ii) in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

(2) Every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and furnish along with the return of income, the report of such audit duly signed and verified by such accountant.

Explanation.—For the purposes of this section,—

(a) "fees for technical services" shall have the same meaning as in *Explanation 2* to clause *(vii)* of sub-section *(1)* of section 9;

(b) "royalty" shall have the same meaning as in *Explanation 2* to clause *(vi)* of sub-section *(1)* of section 9;

(c) "permanent establishment" shall have the same meaning as in clause *(iiia)* of section 92F;.

Amendment of section 45.

26. In section 45 of the Income-tax Act, in sub-section (5), after clause (b) and before the *Explanation*, the following clause shall be inserted with effect from the 1st day of April, 2004, namely:—

"*(c)* where in the assessment for any year, the capital gain arising from the transfer of a capital asset is computed by taking the compensation or consideration referred to in clause *(a)* or, as the case may be, enhanced compensation or consideration referred to in clause *(b)*, and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, such assessed capital gain of that year shall be recomputed by taking the compensation or consideration as so reduced by such court, Tribunal or other authority to be the full value of the consideration.".

Amendment of section 47.

27. In section 47 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in clause *(xiii)*, for the word "corporatisation", wherever it occurs, the words "demutualisation or corporatisation" shall be substituted;

(b) after clause *(xiii)*, the following clause shall be inserted, namely:—

"*(xiiia)* any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board of India established under section 3 of the Securities and Exchange Board of India Act, 1992;".

15 of 1992.

Amendment of section 55.

28. In section 55 of the Income-tax Act, in sub-section *(2)*, with effect from the 1st day of April, 2004,—

(a) in clause *(ab)*, for the word "corporatisation", the words "demutualisation or corporatisation" shall be substituted;

(b) after clause *(ab)*, the following proviso shall be inserted, namely:—

"Provided that the cost of a capital asset, being trading or clearing rights of a recognised stock exchange acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil;*".

Amendment of section 57.

29. In section 57 of the Income-tax Act, in clause *(i)*, for the words "in the case of dividends", the words, figures and letter "in the case of dividends, other than dividends referred to in section 115-O" shall be substituted with effect from the 1st day of April, 2004.

Ameodment of section 72A.

30. In section 72A of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) for sub-sections *(1)* and *(2)*, the following sub-sections shall be suhstituted, namely:—

"*(1)* Where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in clause (*c*) of section 5 of the Banking Regulation Act, 1949 with a specified bank, then, notwithstanding anything contained in any other provision of this Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of this Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

10 of 1949.

(2) Notwithstanding anything contained in sub-section *(1)*, the accumulated loss shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless—

(a) the amalgamating company—

(i) has been engaged in the business for at least three years during which the accumulated loss has occurred or the unabsorbed depreciation has accumulated;

(ii) has held continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation;

(b) the amalgamated company—

(i) holds continuously for a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation;

(ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation;

(iii) fulfils such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose.";

(b) in sub-section *(7)*, after clause *(b)*, the following clause shall be inserted, namely:—

'*(c)* "specified bank" means the State Bank of India constituted under the State Bank of India Act, 1955 or a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 or a corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980.'. 23 of 1955. 38 of 1959. 5 of 1970. 40 of 1980.

Substitution of new section for section 80DD.

31. For section 80DD of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability.

'80DD. *(1)* Where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year,—

(a) incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability: or

(b) paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator or the specified company subject to the conditions specified in sub-section *(2)* and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability,

the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of fifty thousand rupees from his gross total income in respect of the previous year:

Provided that where such dependant is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "fifty thousand rupees", the words "seventy-five thousand rupees" had been substituted.

(2) The deduction under clause *(b)* of sub-section *(1)* shall be allowed only if the following conditions are fulfilled, namely:—

(a) the scheme referred to in clause *(b)* of sub-section *(1)* provides for payment of annuity or lump sum amount for the benefit of a dependent, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made;

(b) the assessee nominates either the dependant, being a person with disability, or any other person or a trust to receive the payment on his behalf, for the benefit of the dependant, being a person with disability.

(3) If the dependent, being a person with disability, predeceases the individual or the member of the Hindu undivided family referred to in sub-section *(2)*, an amount equal to the amount paid or deposited under clause *(b)* of sub-section *(1)* shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall accordingly be chargeable to tax as the income of that previous year.

(4) The assessee, claiming a deduction under this section, shall furnish a copy of the certificate issued by the medical authority in the prescribed form and manner, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed:

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income.

Explanation.—For the purposes of this section,—

(a) "Administrator" means the Administrator as referred to in clause *(a)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;

58 of 2002.

(b) "dependant" means—

(i) In the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them;

(ii) in the case of a Hindu undivided family, a member of the Hindu undivided family, dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance, and who has not claimed any deduction under section 80U in computing his total income for the assessment year relating to the previous year;

(c) "disability" shall have the meaning assigned to it in clause *(i)* of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

1 of 1996.

(d) "Life Insurance Corporation" shall have the same meaning as in clause *(iii)* of sub-section *(8)* of section 88;

(e) "medical authority" means the medical authority as referred to in clause *(p)* of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

1 of 1996.

(f) "person with disability" means a person as referred to in clause (*f*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

1 of 1996.

(g) "person with severe disability" means a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section *(4)* of section 56 of the persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

1 of 1996.

(h) "specified company" means a company as referred to in clause *(h)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002;

58 of 2002.

32. For section 80DDB of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:— **Substitution on new section for section 80DDB.**

Deduction in respect of medical treatment, etc.

'80DDB. Where an assessee who is resident in India has, during the previous year, actually incurred any expenditure for the medical treatment of such disease or ailment as may be specified in the rules made in this behalf by the Board—

(a) for himself or a dependant, in case the assessee is an individual; or

(b) for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family,

the assessee shall be allowed a deduction of the expenditure actually incurred or a sum of forty thousand rupees, whichever is less, in respect of that previous year in which such expenditure was incurred:

Provided that no such deduction shall be allowed unless the assessee furnishes with the return of income, a certificate in such form, as may be prescribed, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed, working in a Government hospital:

Provided further that the deduction under this section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person referred to in clause *(a)* or clause *(b)*:

Provided also that where the expenditure incurred is in respect of the assessee or his dependant or any member of a Hindu undivided family of the assessee and who is a senior citizen, the provisions of this section shall have effect as if for the words "forty thousand rupees", the words "sixty thousand rupees" had been substituted.

Explanation.—For the purposes of this section,—

(i) "dependant" means—

(a) in the case of an individual, the spouse, children, parents, brothers and sisters of the individual or any of them,

(b) in the case of a Hindu undivided family, a member of the Hindu undivided family, dependant wholly or mainly on such individual or Hindu undivided family for his support and maintenance;

(ii) "Government hospital" includes a departmental dispensary whether full-time or part-time established and run by a Department of the Government for the medical attendance and treatment of a class or classes of Government servants and members of their families, a hospital maintained by a local authority and any other hospital with which arrangements have been made by the Government for the treatment of Government servants;

(iii) "insure" shall have the meaning assigned to it in clause *(9)* of section 2 of the insurance Act, 1938; 4 of 1938.

(iv) "senior citizen" means an individual resident in India who is of the age of sixty-five years or more at any time during the relevant previous year.'.

Amendment of section 80-IA.

33. In section 80-IA of the income-tax Act,—

(i) in sub-section *(2)*, for the words "or develops or develops and operates or maintains and operates a special economic zone", the words "or develops a special economic zone" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002;

(ii) in sub-section *(4)*,—

(a) in clause *(ii)*, for the figures, letters and words "31st day of March, 2003", the figures, letters and words "31st day of March, 2004" shall be substituted with effect from the 1st day of April, 2004;

(b) in clause *(iii)*, for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2002, namely:—

"Provided that in a case where an undertaking develops an industrial park on or after the 1st day of April, 1999 or a special economic Zone on or after the 1st day of April, 2001 and transfers the operation and maintenance of such industrial park or such special economic zone, as the case may be, to another undertaking (hereafter in this section referred to as the transferee undertaking), the deduction under sub-section *(1)* shall be allowed to such transferee undertaking for the remaining period in the ten concecutive assessment years as if the operation and maintenance were not so transferred to the transferee undertaking;".

Amendment of section 80-1B.

34. In section 80-IB of the Income-tax Act, with effect from the 1st day of April, 2004,—

(a) in sub *(4)*, after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that no deduction under this sub-section shall be allowed for the assessment year beginning on the 1st day of April 2004 or any subsequent year to any undertaking or enterprise referred to in sub-section *(2)* of section 80-IC.";

(b) in sub-section *(8A)*, in clause *(iii)* for the figures, letters and words "1st day of April 2003", the figures, letters and words "1st day of April, 2004" shall be substituted;

(c) in sub-section *(10)*,—

(i) in the opening portion, for the figures, letters and words "31st day of March, 2001", the figures, letters and words "31st day of March, 2005" shall be substituted;

(ii) in clause *(a)*, the words, figures and letters "and completes the same before the 31st day of March, 2003" shall be omitted;

(d) in sub-section *(11)*, for the figures, letters and words "31st day of March, 2003", the figures, letters and words "1st day of April, 2004" shall be substituted.

Insertion of new section 80-1C.

35. After section 80-IB of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

Special provisions in respect of certain undertakings or enterprises in certain special category States.

'80-IC *(1)* Where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section *(2)*, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains, as specified in sub-section *(3)*.

(2) This section applies to any undertaking or enterprise,—

(a) which has begun or begins to manufacture or produce any article or thing, not being any article or thing specified in the Thirteenth Schedule, or which manufactures or produces any article or thing, not being any article or thing specified in the Thirteenth Schedule and undertakes substantial expansion during the period beginning—

(i) on the 23rd day of December, 2002 and ending before the 1st day of April, 2012, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme

Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in the State of Sikkim; or

(*ii*) on the 7th day of January, 2003 and ending before the 1st day of April, 2012, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in the State of Himachal Pradesh or the State of Uttaranchal; or

(*iii*) On the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Board in accordance with the scheme framed and notified by the Central Government in this regard, in any of the North-Eastern States;

(*b*) which has begun or begins to manufacture or produce any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule, or which manufactures or produces any article or thing, specified in the Fourteenth Schedule or commences any operation specified in that Schedule and undertakes substantial expansion during the period beginning—

(*i*) on the 23rd day of December, 2002 and ending before the 1st day of April, 2012, in the State of Sikkim; or

(*ii*) on the 7th day of January, 2003 and ending before the 1st day of April, 2012, in the State of Himachal Pradesh or the State of Uttarnachal; or

(*iii*) on the 24th day of December, 1997 and ending before the 1st day of April, 2007, in any of the North-Eastern States.

(*3*) The deduction referred to in sub-section (*1*) shall be—

(*i*) in the case of any undertaking or enterprise referred to in sub-clauses (*i*) and (*iii*) of clause (a) or sub-clauses (*i*) and (*iii*) of clause (*b*), of sub-section (*2*), one hundred per cent. of such profits and gains for ten assessment years commencing with the initial assessment year;

(*ii*) in the case of any undertaking or enterprise referred to in sub-clause (*ii*) of clause (*a*) or sub-clause (*ii*) of clause (*b*), of sub-section (*2*), one hundred per cent of such profits and gains for five assessment years commencing with the initial assessment year and thereafter, twenty-five per cent. (or thirty per cent. where the assessee is a company) of the profits and gains.

(*4*) The section applies to any undertaking or enterprise which fulfils all the following conditions, namely:—

(*i*) it is not formed by splitting up, or the reconstruction, of a business already in existence:

Provided that this condition shall not apply in respect of an undertaking which is formed as a result of the re-establishment, reconstruction or revival by the assessee of the business of any such undertaking as is referred to in section 33B, in the circumstances and within the period specified in that section;

(*ii*) it is not formed by the transfer to a new business of machinery or plant previously used for any purpose.

Explanation.—The provisions of Explanations *1* and *2* to sub-section *(3)* of section 80-IA shall apply for the purposes of clause *(ii)* of this sub-section as they apply for the purposes of clause *(ii)* of that sub-section.

(5) Notwithstanding anything contained in any other provision of this Act, in computing the total income of the assessee, no deduction shall be allowed under any other section contained in Chapter VIA or in section 10A or section 10B, in relation to the profits and gains of the undertaking or enterprise.

(6) Nothwithstanding anything contained in this Act, no deduction shall be allowed to any undertaking or enterprise under this section, where the total period of deduction inclusive of the period of deduction under this section, or under the second proviso to sub-section *(4)* of section 80 -IB or under section 10C, as the case may be, exceeds ten assessment years.

(7) The provisions contained in sub-section *(5)* and sub-sections *(7)* to *(12)* of section 80-IA shall, so far as may be, apply to the eligible undertaking or enterprise under this section.

(8) For the pruposes of this section,—

(i) "Industrial Area" means such areas, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(ii) "Industrial Estate" means such estates, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(iii) "Industrial Growth Centre" means such centres, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(iv) "Industrial Park" means such parks, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(v) "Initial assessment year" means the assessment year relevant to the previous year in which the undertaking or the enterprise beings to manufacture or produce articles or things, or commences operation or completes substantial expansion;

(vi) "Integrated Infrastructure Development Centre" means such centres, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government;

(vii) "North-Eastern States" means the States of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura;

(viii) "Software Technolgy Park" means any park set up in accordance with the Software Technology Park scheme notified by the Government of India in the Ministry of Commerce and Industry;

(ix) "Substantial expansion" means increase in the investment in the plant and machinery by at least fifty per cent. of the book value of plant and machinery (before taking depreciation in any year), as on the first day of the previous year in which the substantial expansion is undertaken;

(x) "Theme Park" means such parks, which the Board, may, by notification in the Official Gazette, specify in accordance with the scheme framed and notified by the Central Government.

Amendment of section 80L.

36. In section 80L of the Income-tax Act, in sub-section *(1)*,—

(a) clauses *(iv)*, *(v)* and *(va)* shall be omitted with effect from the 1st day of April, 2004;

(b) in clauses *(1)* and *(2)*, for the words "nine thousand", the words "twelve thousand" shall be substituted.

Omission of section 80M.

37. Section 80M of the Income-tax Act shall be omitted with effect from the 1st day of April, 2004.

Insertion of new section 80QQB.

38. After section 80QQA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

Deduction in respect of royalty income, etc., of authors of certain books other than next books.

'80QQB. *(1)* Where, in the case of an individual resident in India, being an author, the gross total income includes any income, derived by him in the exercise of his profession, on account of any lump sum consideration for the assisgnment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalty or copyright fees (whether receivable in lump sum or otherewise) in respect of such book, there shall, in accordance with the subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in sub-section *(2)*.

(2) The deduction under the section shall be equal to the whole of such income referred to in sub-section *(1)*, or an amount of three lakh rupees, whichever is less:

Provided that where the income by way of such royalty or the copyright fee, is not a lump sum consideration in lieu of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of fiteen per cent. of the value of such books sold during the previous year shall be ignored:

Provided further that in respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.

(3) No duduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed from and in the prescribed manner, duly verified by any person responsible for making such payment to the assessee as referred to in sub-section *(1)*, along with the return of income, setting forth such particulars as may be prescribed.

(4) No duduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate, in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

(5) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of this Act in any assessment year.

Explanation.—For the purposes of this section,—

(*a*) "author" includes a joint author;

(*b*) "books" shall not include brochures, commentaries, diaries, guides, journals, magazines, newspapers, pamphlets, text books for schools, tracts and other publications of similar nature, by whatever name called;

(*c*) "competent authority" means the Reserve Bank of India or such other authority as is authorised under any law for the time being in force for regulating payments and dealings in foreign exchange;

(*d*) " lump sum", in regard to royalties or copyright fees, includes an advance payment on account of such royalties or copyright fees which is not returnable.'.

Insertion of new section 80RRB.

39. After section 80RRA of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

Deduction in respect of royalty on patents.

'80RRB. (*1*) Where in the case of an assessee, being an individual, who is—

(*a*) resident in India;

(*b*) a patentee;

(*c*) in receipt of any income by way of royalty in respect of a patent registered on or after the 1st day of April, 2003 under the Patents Act, 1970, and

39 of 1970.

his gross total income of the previous year includes royalty, there shall, in accordance with and subject to the provisions of this section, be allowed a deduction, from such income, of an amount equal to the whole of such income or three lakh rupees, whichever is less:

Provided that where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act:

39 of 1970.

Provided further that in respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority referred to in clause (*c*) of the *Explanation* to section 80QQB may allow in this behalf.

(*2*) No deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the prescribed authority, along with the return of income setting forth such particulars as may be prescribed.

(*3*) No deduction under this section shall be allowed, in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form, from the authority or authorities, as may be prescribed, along with the return of income.

(*4*) Where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed, under any other provision of this Act in any assessment year.

Explanation.—For the purpose of this section,—

(*a*) "Controller" shall have the meaning assigned to in clause (*b*) of sub-section (*1*) of section 2 of the Patents Act, 1970.

39 of 1970.

(*b*) "lump sum" includes an advance payment on account of such royalities which is not returnable;

(*c*) " patent" means a patent (including a patent of addition) granted under the Patents Act, 1970;

39 of 1970.

(*d*) "patentee" means the person, being the true and first inventor of the invention, whose name is entered on the patent register as the patentee, in accordance with the Patents Act, 1970, and includes every such person, being the true and first inventor of the invention, where more than one person is registered as patentee under that Act in respect of that patent; 39 of 1970.

(*e*) "patent of addition" shall have the meaning assigned to it in clause (*q*) of sub-section (*1*) of section 2 of the Patents Act, 1970; 39 of 1970.

(*f*) "patented article" and "patented process" shall have the meanings respectively assigned to them in clause (*o*) of sub-section (*1*) of section 2 of the Patents Act, 1970; 39 of 1970.

(*g*) "royalty", in respect of a patent, means consideration (including any lump sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains" or consideration for sale of product manufactured with the use of patented process or of the patented article for commercial use) for—

(*i*) the transfer of all or any rights (including the granting of a licence) in respect of a patent; or

(*ii*) the imparting of any information concerning the working of, or the use, a patent; or

(*iii*) the use of any patent; or

(*iv*) the rendering of any services in connection with the activities referred to in sub-clauses (*i*) to (*iii*);

(*h*) "true and first inventor" shall have the meaning assigned to it in clause (*y*) of sub-section (*1*) of section 2 of the Patents Act, 1970.'. 39 of 1970.

Substitution of new section for section 80U.

40. For section 80U of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

Deduction in case of a person with disability.

'80U. (*1*) In computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of fifty thousand rupees:

Provided that where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "fifty thousand rupees", the words "seventy-five thousand rupees" had been substituted.

(*2*) Every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed:

Provided that where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income under section 139.

Explanation.—For the purposes of this section,—

(*a*) "disability" shall have the meaning assigned to it in clause (*i*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(*b*) "medical authority" means the medical authority as referred to in clause (*p*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(*c*) "person with disability" means a person referred to in clause (*t*) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; 1 of 1996.

(*d*) "person with severe disability" means a person with eighty per cent. or more of one or more disabilities, as referred to in sub-section (*4*) of section 56 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.'. 1 of 1996.

41. In section 88 of the Income-tax Act, with effect from the 1st day of April, 2004,— **Amendment of section 88.**

(*a*) in sub-section (2),—

(*i*) after clause (*xiva*), the following clause shall be inserted, namely:—

"(*xivb*) as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission or thereafter,—

(*a*) to any university, college, school or other education institution situated within India;

(*b*) for the purpose of full-time education or any of the persons specified in sub-section (4);";

(*ii*) in clause (*xvi*), for the *Explanation,* the following *Explanation* shall be substituted, namely:—

'*Explanation.*—For the purpose of this clause,—

(*i*) "eligible issue of capital" means an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section *(4)* of section 80-IA

(ii) "public company" shall have the meaning assigned to it in section 3 of the Companies Act, 1956; 1 of 1956.

(iii) "public financial institution" shall have the meaning assigned to it in section 4A of the Companies Act, 1956;'; 1 of 1956.

(b) after sub-section *(2),* the following sub-section shall be inserted, namely:—

"*(2A)* The provisions of sub-section *(2)* shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferder annuity as is not in excess of twenty per cent. of the actual capital sum assured.

Explanation.— In calculating any such actual capital sum, no account shall be taken—

(i) of the value of any premiums agreed to be returned, or

(ii) of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.";

(c) in sub-section *(4)*, after clause *(c),* the following clause shall be inserted, namely:—

"(d) for the purpose of clause *(xivb)* of that sub-section, in the case of an individual, any two children of such individual.";

(d) in sub-section (5), after the second proviso, the following proviso shall be inserted, namely:—

"provided also that where the aggregate of any sum specified in clause *(xivb)* of sub-section *(2)* exceeds an amount of twelve thousand rupees in respect of a child, a deduction under sub-section *(1)* in respect of such sum shall be allowed with reference to so much of the aggregate as does not exceed an amount of twelve thousand rupees in respect of such child.".

Amendment of section 88B.

42. In section 88B of the Income-tax Act, for the words "fifteen thousand rupees", the words "twenty thousand rupees" shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 90.

43. In section 90 of the Income-tax Act, with effect from the 1st day of April, 2004,—

(i) in sub-section *(1)*, for clause *(a)*, the following clause shall be substituted, namely:—

"*(a)* for the granting of relief in respect of—

(i) income on which have been paid both income-tax under this Act and income-tax in that country: or

(ii) income-tax chargeable under this Act or under the corresponding law in force in that country to promote mutual economic relations, trade and investment, or";

(ii) after sub-section *(2)* and before the *Explanation*, the following sub-section shall be inserted, namely:—

"*(3)* Any term used but not defined in this Act or in the agreement referred to in sub-section *(1)* shall, unless the context otherwise requires, and is not inconsistent with the provisions of this Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.".

Amendment of section 115A.

44. In section 115A of the Income-tax Act, in sub-section *(1)*, with effect from the 1st day of April, 2004,—

(i) in clause *(a)*, for the word "dividends", at both the places where it occurs, the words, figures and letter "dividends other than dividends referred to in section 115-0" shall be substituted;

(ii) in clause *(b)*, in the opening portion, for the words "a foreign company, includes any income by way of royalty or fees for technical services", the words, brackets, figures and letters "a non-resident (not being a company) or a foreign company, includes any income by way of royalty or fees for technical services other than income referred to in sub-section *(1)* of section 44DA" shall be substituted.

Amendment of section 115AC.

45. In section 115AC of the Income-tax Act, for the word "dividends", wherever it occurs, the words, figures and letter "dividends, other than dividends referred to in section 115-0" shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 115ACA.

46. In section 115ACA of the Income-tax Act, for the words "income by way of dividends", wherever they occur, the words, figures and letter "income by way of dividends, other than dividends referred to in section 115-0" shall be substituted with effect from the 1st day of April, 2004.

Amendment of section 115AD.

47. In section 115AD of the Income-tax Act, in sub-section *(1)*, in clause *(a)*, for the word "income", the words, figures and letter "income other than income by way of dividends referred to in section 115-0" shall be substituted with effect from the 1st day of April, 2004.

48. In section 115C of the Income-tax Act, in clause *(c)*, for the words "income derived", the words, figures and letter "income derived other than dividends referred to in section 115-0" shall be substituted with effect from the 1st day of April, 2004. Amendment of section 115C.

49. In section 115-0 of the Income-tax Act, for sub-section *(1)*, the following sub-section shall be substituted, namely:— Amendment of section 115-0.

"*(1)* Notwithstanding anything contained in any other provision of this Act and subject to the provisions of this section, in addition to the income-tax chargeable in respect of the total income of a domestic company for any assessment year, any amount declared, distributed or paid by such company by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2003, whether out of current or accumulated profits shall he charged to additional income-tax (hereafter referred to as tax on distributed profits) at the rate of twelve and one-half per cent.".

50. In section 115R of the Income-tax Act, for sub-section *(2)*, the following shall be substituted, namely:— Amendment of section 115R.

'(2) Notwithstanding anything contained in any other provision of this Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additonal income-tax on such distributed income at the rate of twelve and one-half per cent.:

Provided that nothing contained in this sub-section shall apply in respect of any income distributed,—

(a) by the Administrator of the specified undertaking, to the unit holders;

or

(b) to a unit holder of open-ended equity oriented funds in respect of any distribution made from such funds for a period of one year commencing from the 1st day of April, 2003.

Explanation.— For the purposes of this sub-section, "Administrator" and "specified company" shall have the meanings respectively assigned to them in the *Explanation* to clause *(35)* of section 10.'.

51. In section 115S of the Income-tax Act, for the words "Unit Trust of India or a Mutual Fund and the Unit Trust of India", the words, brackets, letter and figures "specified company as referred to in clause *(h)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 or a Mutual Fund and the specified company" shall be substituted. Amendment of sectinn 115S.

58 of 2002.

52. In section 115T of the Income-tax Act, in the opening portion, for the words "Unit Trust of India or a Mutual Fund and the Unit Trust of India", the words, brackets , letter and figures "specified company as referred to in clause *(h)* of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 or a Mutual Fund and the specified company" shall he substituted. Amendment of section 115T.

58 of 2002.

53. In section 132 of the Income-tax Act, with effect from the 1st day of June, 2003,— Amendment of section 132.

(a) in sub-section *(1)*,—

(i) after clause *(iii)*, the following proviso shall be inserted, namely:—

"Provided that bullion, jewellery or other valuable article or thing, being stock-in-trade of the business, found as a result of such search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business;";

(ii) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business.";

(b) in sub-setion *(8)*, for the words, brackets, letters and figures "under clause *(c)* of section 158BC", the words, brackets, letters and figures "under section 153A or clause *(c)* of section 158BC" shall be substituted.

Amendment of section 132B..

54. In section 132B of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1)*, in clause *(i)*,—

(*i*) for the words, figures and letter "under Chapter XIV-B for the block period", the words, figures and letter "under section 153A and the assessment of the year relevant to the previous year in which search is initiated or requisition is made, or the amount of liability determined on completion of the assessment under Chapter XIV-B for the block period, as the case may be" shall be substituted;

(ii) in the first proviso, for the words "provided that where the nature and source of acquisition of any such asset is explained", the words "Provided that where the person concerned makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized, for release of asset and the nature and source of acquisition of any such asset is explained" shall be substituted;

(*b*) in sub-section (*4*), in clause (*b*) , for the wrods, figures and letter "under Chapter XIV-B", the wrods, figures and letters "under section 153A or under Chapter XIV-B" shall be substituted.

Amendment of section 133A.

55. In section 133A of the Income-tax Act, with effect from the 1st day of June, 2003,—

(*a*) in sub-section (*3*), in clause (*ia*), in the proviso, for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) retain in his custody and such books of account or other documents for a period exceeding ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be,";

(*b*) after sub-section (*6*) and before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided that no action under sub-section (*1*) shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.";

(*c*) in the *Explanation* below sub-section (*6*), for clause (*a*), the following clause shall be substituted, namely:—

'(*a*) "income-tax authority" means a Commissioner, a Joint Commissioner, a Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, or a Tax Recovery Officer, and for the purposes of clause (*i*) of sub-section (*1*), clause (*i*) of sub-section (*3*) and sub-section (*5*), includes an Inspector of Income-tax;'.

Amendment of section 139.

56. In section 139 of the Income-tax Act, after sub-section (*1A*), the following sub-section shall be inserted, nemely:—

"(*1B*) Without prejudice to the provisions of sub-section (*1*), any person, being a company or being a person other than a company, required to furnish a return of income under sub-section (*1*), may, at his option, on or before the due date, furnish a return of his income for any previous year in accordance with such scheme as may be

specified by the Board in this behalf by notification in the Official Gazette and subject to such conditions as may be specified therein, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner as may be specified in that scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section (*1*), and the provisions of this Act shall apply accordingly.".

Amendment of section 140A.

57. In section 140A of the Income-tax Act, with effect from the 1st day of June, 2003,—

(*a*) in sub-section (*1*), for the words, figures and letters, "as the case may be, section 158BC", the words, figures and letters "section 153A or, as the case may be, section 158BC" shall be substituted;

(*b*) in sub-section (*2*), for the words, figures and letters "an assessment under section 158BC", the words, figures and letters "an assessment under section 153A or section 158BC" shall be substituted.

Amendment of section 143.

58. In section 143 of the income-tax Act, in sub-section (*2*), with effect from the 1st day of June, 2003,—

(*a*) in clause (*i*), the following proviso shall be inserted, namely:—

"Provided that no notice under this clause shall be served on the assessee on or after the 1st day of June, 2003;";

(*b*) in the proviso below clause (*ii*), for the words "no notice under this sub-section", the words, brackets and figures "no notice under clause (*ii*)" shall be substituted.

Insertion of new sections 153A, 153B and 153C.

59. After section 153 of the Income-tax act, the following sections shall be inserted with effect from the 1st day of June, 2003, namely:—

Assessment in case of search or requisition.

'153A. Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall—

(*a*) issue notice to such person requiring him to furnish within such period, as may be specified in the notice, the return of income in respect of each assessment year falling within six assessment years referred to in clause (*b*), in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of this Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139;

(*b*) assess or reassess the total income of six assessment years immediately preceding the assessment year relevant to the previous year in which such search is conducted or requisition is made:

Provided that the Assessing Officer shall assess or reassess the total income in respect of each assessment year falling within such six assessment years:

Provided further that assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in this section pending on the date of initiation of the search under section 132 or making of requisition under section 132A, as the case may be, shall abate.

Explanation.—For the removal of doubts, it is hereby decalred that,—

(*i*) save as otherwise provided in this section, section 153B and section 153C, all other provisions of this Act shall apply to the assessment made under this section;

(*ii*) in an assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

Time-limit for completion of assessment under section 153A.

153B. (*1*) Notwithstanding anything contained in section 153, the Assessing Officer shall make an order of assessment or reassessment,—

(*a*) in respect of each assessment year falling within six assessment years referred to in clause (*b*) of section 153A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed;

(*b*) in respect of the assessment year relevant to the previous year in which search is conducted under secion 132 or requisition is made under section 132A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed.

Explanation.—In computing the period of limitation for the pruposes of this section,—

(*i*) the period during which the assessment proceeding is stayed by an order or injunction of any court; or

(*ii*) the period commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (*2A*) of section 142 and ending on the day on which the asessee is required to furnish a report of such audit under that sub-section; or

(*iii*) the time taken in reopening the whole or any part of the proceeding or in giving an opportunity to the assessee of being re-heard under the proviso to section 129; or

(*iv*) in a case where an application made before the Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing from the date on which such application is made and ending with the date on which the order under sub-section (*1*) of section 245D is received by the Commissioner under sub-section (*2*) of that section,

Shall be excluded:

Provided that where immediately after the exclusion of the aforesaid period, the period of limitation referred to in clause (*a*) or clause (*b*) of this section available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the aforesaid period of limitation shall be deemed to be extended accordingly.

(*2*) The authorisation referred to in clause (*a*) and clause (*b*) of sub-section (*1*) shall be deemed to have been executed,—

(*a*) in the case of search, on the conclusion of search as recorded in the last panchnama drawn in relation to any person in whose case the warrant of authorisation has been issued;

(*b*) in the case of requisition under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

Assessment of income of any other person.

153C. Notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belongs or belong to a person other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153SA'.

Amendment of section 155.

60. In section 155 of the Income-Tax Act, after sub-section (*15*) and before the *Explanation,* the following sub-sections shall be inserted with effect from the 1st day of April, 2004, namely:—

"*(16)* Where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer,the consideration for which was determined or approved by the Central Government or the Reserve Bank of India,is computed by taking the compensation or consideration as referred to in clause *(a)* or, as the case may be, the compensation or consideration enhanced or further enhanced as referred to inclause *(b)* of sub-section (*5*) of section 45, to be the full value of consideration deemed to be received or accruing as a result of the tansfer of the asset and subsequently such compensation or consideration is reduced by any court, Tribunal or other authority, the Assessing Officer shall amend the order of assessment so as to compute the capital gain by taking the compensation or consideration as so reduced by the court, Tribunal or any other authority to be the full value of consideration; and the provision of section 154 shall, so far as may be, apply thereto, and the period of four years shall be reckoned from the end of the previous year in which the order reducing the compensation was passed by the court, Tribunal or other authority.

(17) Where a deduction has been allowed to an assessee in any assessment year under section 80RRB in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act,1970,— 39 of 1970.

(i) the patent was revoked, or

(ii) the name of the assessee was excluded from the patents register as patentee in respect of that patent,

the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or the period for which the assessee's name was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed and the Assessing Officer may, notwithstanding anything contained in this Act, recompute the total income of the assessee for the relevant previous year and make necessary amendment; and the provisions of section 154 shall, so far as may be, apply thereto, the period of four years specified in sub-section (*7*) of that section being reckoned from the end of the previous year in which such order of the Controller refered to inclause *(b)* of sub-section *(1)*, or the High Court referred to in clause *(i)* of sub-section *(1)* of section 2, of the Patents Act, 1970, as the case may be, was passed.". 39 of 1970.

Insertion of new section 158BI.

61. After section 158BH of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2003, namely:—'

Chapter not to apply after certain date.

"158BI. The provisions of this Chapter shall not apply where a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003.".

Amendment of section 163.

62. In section 163 of the Income-tax Act, in sub-section *(1)*, after the proviso, the following *Explanation* shall be inserted with effect from the 1st day of April, 2004, namely:—

'Explanation.—For the purposes of this sub-section, the expression "business connection" shall have the meaning assigned to it in *Explanation 2* to clause *(i)* of sub-section *(1)* of section 9 of this Act.".

Amendment of section 184.

63. In section 184 of the Income-tax Act, for sub-section *(5)*, the following sub-section shall be substituted with effect from the 1st day of April, 2004, namely:—

'(5) Notwithstanding anything contained in any other provision of this Act, where , in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed incomputing the income chargeable under the head "Profits and gains of business or profession" and such interest, salary, bonus, commission or ramuneration shall not be chargeable to income-tax under clause *(v)* of section 28".

Substitution of new section for section 185.

64. For section 185 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 2004, namely:—

Assessment when section 184 not complied with.

'185. Notwithstanding anything contained in any other provision of this Act, where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed incomputing the income chargeable under the head "Profits and gains of business or profession" and such interest , salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause *(v)* of section 28.'.

Amendment of section 191.

65. In section 191 of the Income-tax Act, the following *Explanation* shall be inserted with effect from the 1st day of June, 2003, namely:—

"Explanation.—For the removal of doubts, it is heareby declared that if any person referred to in section 200 and in the cases referred to insection 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax and such tax has not been paid by the assessee direct, then, such person, the principal officer and the company shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default as referred to in sub-section *(1)* of section 201 in respect of such tax.".

Amendment of section 193.

66. In section 193 of the Income-tax Act, in the opening portion, for the words "The person responsible for paying any income", the words "The person responsible for paying to a resident any income" shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 194.

67. In section 194 of the Income-tax Act,—

(a) in the first proviso, in clause *(b)* , for the words "one thousand rupees", the words "two thousand five hundred rupees" shall be substituted and shall be deemed to have been substituted with effect from the 1st day of August, 2002;

(b) after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that no such deduction shall be made in respect of any dividends referred to in section 115-O.".

Amendment of section 194C.

68. In section 194C of the Income-tax Act, sub-sections *(4)* and *(5)* shall be ommitted with effect from the 1st day of June, 2003.

Amendment of section 194G.

69. In section, 194G of the Income-tax Act, sub-sections *(2)* and *(3)* shall be omitted with effect from the 1st day of June, 2003.

Amendment of section 194-I.

70. In section 194-I of the Income-tax Act, in the opening portion, for the words "Any person, not being an individual or a Hindu undivided family, who is responsible for paying to any person", the words "Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident" shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 194J.

71. In section 194J of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) in sub-section *(1)* , after the second proviso, the following proviso shall be inserted, namely:—

"Provided also that no individual or a Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.";

(b) sub-sections *(2)* and *(3)* shall be omitted.

Amendment of section 194K.

72. In section 194K of the Income-tax Act,—

(a) in the first proviso, for the words "one thousand rupees", the words "two thousand five hundred rupees", shall be substituted and shall be deemed to have been substituted with effect from the 1st day of August, 2002;

(b) after the second proviso and before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided also that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003.".

Amendment of section 195.

73. In section 195 of the Income-tax Act,—

(a) in sub-section *(1),*—

(i) the brackets and words "(not being interest on securities)" shall be omitted with effect from the 1st day of June, 2003;

(ii) after the proviso and before the *Explanation,* the following proviso shall be inserted, namely:—

"Provided further that no such deduction shall be made in respect of any dividends referred to in section 115-O.";

(b) in sub-section *(2)*, for the brackets and words "(other than interest on securities and salary)" the brackets and words "(other than salary)" shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 196A.

74. In section 196A of the Income-tax Act, in sub-section *(1)*, the following proviso shall be inserted, namely:—

"Provided that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003.".

Amendment of section 196C.

75. In section 196C of the Income-tax Act, the following proviso shall be inserted, namely:—

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.".

Amendment of section 196D.

76. In section 196D of the Income-tax Act, in sub-section *(1)*, the following proviso shall be inserted, namely:—

"Provided that no such deduction shall be made in respect of any dividends referred to in section 115-O.".

Amendment of section 197.

77. In section 197 of the Income-tax Act, in sub-section *(1)* with effect from the 1st day of June, 2003,—

(a) for the words "any income of any person", the words "any income of any person or sum payable to any person" shall be substituted;

(b) for the figures and letters "194A, 194D, 194H, 194-I, 194K, 194L", the figures and letters "194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K" shall be substituted.

Amendment of section 197A.

78. In section 197A of the Income-tax Act, with effect from the 1st day of June, 2003,—

(a) after sub-section *(1B)*, the following sub-section shall be inserted, namely:—

"*(1C)* Notwithstanding anything contained in section 193 or section 194 or section 194A or section 194EE or section 194K or sub-section *(1B)* of this section, no deduction of tax shall be made in the case of an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 193 or section 194 or section 194A or section 194EE or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil.*";

(b) in sub-section *(2)*, after the words, brackets, figure and letter "or sub-section *(1A)*", at both the places where they occur, the words, brackets, figure and letter "or sub-section *(1C)*" shall be inserted.

Amendment of section 206.

79. In section 206 of the Income-tax Act, for sub-sections *(2)* and *(3)*, the following sub-sections shall be substituted with effect from the 1st day of June, 2003, namely:—

"*(2)* Without prejudice to the provisions of sub-section *(1)*, the person responsible for deducting tax under the foregoing provisions of this Chapter other than the principal officer in the case of every company may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media (hereinafter referred to as the computer media) and in the manner as may be specified in that scheme:

Provided that the principal officer shall, in the case of every company responsible for deducting tax under the foregoing provisions of this Chapter, deliver or cause to be delivered, within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

(3) Notwithstanding anything contained in any other law for the time being in force, a return filed on computer media shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

(4) Where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section *(2)* is defective, he may intimate the defect to the person responsible for deducting tax or the principal officer in the case of a company, as the case may be, and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow;

and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of this Act, such return shall be treated as an invalid return and the provisions of this Act shall apply as if such person had failed to deliver the return.".

80. In section 206C of the Income-tax Act, with effect from the 1st day of June, 2003,— Amendment of section 206C.

(a) in sub-section *(1)*, for the Table, the following Table shall be substituted, namely:—

"TABLE

Sl. No.	Nature of Goods	Percentage
(1)	(2)	(3)
(i)	Alcoholic liquor for human consumption and tendu leaves	Ten per cent.
(ii)	Timber obtained under a forest lease	Fifteen per cent.
(iii)	Timber obtained by any mode other than under a forest lease	Five per cent.
(iv)	Any other forest produce not being timber or tendu leaves	Fifteen per cent
(v)	Scrap	Ten per cent.:";

(b) in the *Explanation* below sub-section *(11)*, in clause *(a)*, for sub-clauses *(i)* to *(iii)*, the following sub-clauses shall be substituted, namely:—

"*(i)* a public sector company, or

(ii) a buyer in the further sale of such goods obtained in pursuance of such sale;".

81. In section 230 of the Income-tax Act, for sub-section *(1)*, the following sub-sections shall be substituted with effect from the 1st day of June, 2003, namely:— Amendment of section 230.

"*(1)* Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, no person,—

(a) who is not domiciled in India;

(b) who has come to India in connection with business, profession or employment; and

(c) who has income derived from any source in India,

shall leave the territory of India by land, sea or air unless he furnishes to such authority as may be prescribed—

(i) an undertaking in the prescribed form from his employer; or

(ii) through whom such person is in receipt of the income,

to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer referred to in clause *(i)* or the person referred to in clause *(ii)*, and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no objection certificate, for leaving India:

Provided that nothing contained in sub-section *(1)* shall apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

(1A) Subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, every person, who is domiciled in India at the time of his departure, shall furnish, in the prescribed form to the income-tax authority or such other authority as may be prescribed—

(*a*) the permanent account number allotted to him under section 139A:

Provided that in case no such permanent account number has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under this Act, such person shall furnish a certificate in the prescribed form;

(*b*) the purpose of his visit outside India;

(*c*) the estimated period of his stay outside India:

Provided that no person—

(*i*) who is domiciled in India at the time of his departure; and

(*ii*) in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for such person to obtain a certificate under this section,

Shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liabilities under this Act, or the Wealth-tax Act, 1957, or the Gift-tax Act, 1958, or the Expenditure-tax Act, 1987, or that satisfactory arrangements have been made for the payment of all or any of such tax which are or may become payable by that person: 27 of 1957. 18 of 1958. 35 of 1987.

Provided that no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the Chief Commissioner of Income-tax.".

Amendment of section 234A.

82. In section 234A of the Income-tax Act, with effect from the 1st day of June, 2003,—

(*a*) in sub-section (*1*), in Explanation 3, for the words and figures "under section 147", the words, figures and letter "under section 147 or section 153A" shall be substituted;

(*b*) in sub-section (*3*),—

(*i*) in the opening portion, for the words and figures "by a notice under section 148", the words, figures and letter "by a notice under section 148 or section 153A" shall be substituted;

(*ii*) in clause (*b*), after the word and figures "section 147", the words, figures and letter "or reassessment under section 153A" shall be inserted.

Amendment of section 234B.

83. In section 234B of the Income-tax Act, with effect from the 1st day of June, 2003,—

(*a*) in sub-section (*1*), in *Explanation* 2, for the words and figures "under section 147", the words, figures and letter "under section 147 or section 153A" shall be substituted;

(*b*) in sub-section (*3*), for the words and figures "under section 147" at both the places where they occur, the words, figures and letter "under section 147 or section 153A" shall be substituted.

Insertion of new section 234D.

84. After section 234C of the Income-tax Act, the following section shall be inserted with effect from the 1st day of June, 2003, namely:—

Interest on excess refund.

"234D. (*1*) Subject to the other provisions of this Act, where any refund is granted to the assessee under sub-section (*1*) of section 143, and—

(*a*) no refund is due on regular assessment; or

(*b*) the amount refunded under sub-section (*1*) of section 143 exceeds the amount refundable on regular assessment,

the assessee shall be liable to pay simple interest at the rate of two-third per cent. on the whole or the excess amount so refunded, for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

(*2*) Where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (*4*) of section 245D, the amount of refund granted under sub-section (*1*) of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then, the interest chargeable, if any, under sub-section (*1*) shall be reduced accordingly.

Explanation.—Where, in relation to an assessment year, an assessment is made for the first time under section 147 or section 153A, the assessment so made shall be regarded as a regular assessment for the purposes of this section.".

Amendment of section 245N.

85. In section 245N of the Income-tax Act, in clause (*a*),—

(*a*) in sub-clause (*ii*), with effect from the 1st day of June, 2000,—

(*i*) after the words "a determination by the Authority in relation to", the words "the tax liability of a non-resident arising out of" shall be inserted and shall be deemed to have been inserted;

(*ii*) for the words "a non-resident", the words "such non-resident" shall be substituted and shall be deemed to have substituted;

(*b*) after sub-clause (*iii*), the following proviso shall be inserted, namely:—

"Provided that where an advance ruling has been pronounced, before the date on which the Finance Bill, 2003 receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause (*ii*) of this clause as it stood immediately before such date, such ruling shall be binding on the persons specified in section 245S;".

Amendment of section 246A.

86. In section 246A of the Income-tax Act, in sub-section (*1*), after clause (*b*), the following clause shall be inserted with effect from the 1st day of June, 2003, namely:—

"(*ba*) an order of assessment or reassesment under section 153A;".

Amendment of sectinn 269T.

87. In section 269T of the Income-tax Act, after the proviso and before the *Explanation*, the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 1st day of June, 2002, namely:—

"Provided further that nothing contained in this section shall apply to repayment of any loan or deposit taken or accepted from—

(*i*) Government;

(*ii*) any banking company, post office savings bank or co-operative bank;

(*iii*) any corporation established by a Central, State or Provincial Act;

(*iv*) any Government company as defined in section 617 of the Companies Act, 1956;

1 of 1956

(*v*) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.".

Amendment of section 271E.

88. In section 271E of the Income-tax Act, in sub-section (*1*), for the word "deposit" at both the places where it occurs, the words "loan or deposit" shall be substituted with effect from the 1st day of June, 2003.

Amendment of section 275.

89. In section 275 of the Income-tax Act, in sub-section (*1*), with effect from the 1st day of June, 2003,—

(*a*) after clause (*a*), the following proviso shall be inserted, namely:—

"Provided that in a case where the relevant assessment or other order is the subject-matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or within one year from the end of the financial year in which the order of the Commissioner (Appeals) is received by the Chief Commissioner or Commissioner, whichever is later;";

(*b*) in clause (*b*), after the word and figures "section 263", the words and figures "or section 264" shall be inserted.

Amendment of section 276CC.

90. In section 276CC of the Income-tax Act, for the word and figures "section 148", the words, figures and letter "section 148 or section 153A" shall be substituted with effect from the 1st day of June, 2003.

Insertion of new section 285BA.

91. After section 285B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 2004, namely:—

Annual information return.

"285BA. Any assessee, who enters into any financial transaction, as may be prescribed, with any other person, shall furnish, within the prescribed time, an annual information return in such form and manner, as may be prescribed, in respect of such financial transaction entered into by him during any previous year.".

Insertion of Thirteenth and Fourteenth Schedules.

92. In the Income-tax Act, after the Twelfth Schedule, the following Schedules shall be inserted with effect from the 1st day of April, 2004, namely:—

"THE THIRTEENTH SCHEDULE

[*See* section 80-IC(*2*)]

LIST OF ARTICLES OR THINGS

PART A

For the State of Sikkim

S.No.	Article or thing
1.	Tobacco and tobacco products (including cigarettes, cigars, and gutka, etc.)
2.	Aerated branded beverages
3.	Pollution-causing paper and paper products

PART B

For the State of Himachal Pradesh and the State of Uttaranchal

S. No.	Activity or article or thing	Excise classification	Sub-class under National Informatics Centre (NIC) classification 1998
1.	Tobacco and tobacco products including cigarettes and pan masala	24.01 to 24.04 and 21.06	1600
2.	Thermal Power Plant (coal/oil based)		40102 or 40103
3.	Coal washeries/dry coal processing		

S. No.	Activity or article or thing	Excise classification	Sub-class under National Informatics Centre (NIC) classification 1998
4.	Inorganic Chemicals excluding medicinal grade oxygen (2804.11), medicinal grade hydrogen peroxide (2847.11), compressed air (2851.30)	Chapter 28	
5.	Organic chemicals excluding Provitamins/ Vitamins, Hormones (29.36), Glycosides (29.39), sugars* (29.40)	Chapter 29	24117
6.	Tanning and dyeing extracts, tannins and their derivatives, dyes, colour, paints and varnishes; putty, fillers and other mastics; inks	Chapter 32	24113 or 24114
7.	Marble and mineral substances not classified elsewhere	25.04 25.05	14106 or 14107
8.	Flour mills/rice mills	11.01	15311
9.	Foundries using coal		
10.	Minerals fuels, mineral oils and products of their distillation; bituminous substances: mineral waxes	Chapter 27	
11.	Synthetic rubber products	40.02	24131
12.	Cement clinkers and asbestos, raw including fibre	2502.10 2503.00	
13.	Explosive (including industrial explosives, detonators and fuses, fireworks, matches, propellant powders, etc.)	36.01 to 36.06	24292
14.	Mineral or chemical fertilizers	31.02 to 31.05	2412
15.	Insecticides, fungicides, herbicides and pesticides (basic manufacture and formulation)	3808.10	24211 or 24219
16.	Fibre glass and articles thereof	70.14	26102
17.	Manufacture of pulp — wood pulp, mechanical or chemical (including dissolving pulp)	47.01	21011
18.	Branded aerated water/soft drinks (non-fruit based)	2201.20 2202.20	15541 or 15542
19.	Paper Writing or printing paper, etc. Paper or paperboard, etc. Maplitho paper, etc. Newsprint, in rolls or sheets	4801 4802.10 4802.20 4802.30 4801.00	21011 to 21019

S. No.	Activity or article or thing	Excise classification	Sub-class under National Informatics Centre (NIC) classification 1998
	Craft paper, etc.	4804.10	
	Sanitary towels, etc.	4818.10	
	Cigarette paper	48.13	
	Grease-proof paper	4806.10	
	Toilet or facial tissue, etc.	4803	
	Paper and paper board, laminated internally with bitumen, tar or asphalt	4807.10	
	Carbon or similar copying paper	4809.10	
	Products consisting of sheets of paper or paperboard, impregnated, coated or covered with plastics, etc.	4811.20	
	Paper and paperboard, coated impregnated or covered with wax, etc.	4811.40	
20.	Plastics and articles thereof	39.09 to 39.15	

*Serial No. 5 Reproduction by synthesis not allowed as also downstream industries for sugar.

THE FOURTEENTH SCHEDULE

[*See* section 80-1C (*2*)]

LIST OF ARTICLES OF THINGS OR OPERATIONS

PART A

For the North-Eastern States

1. Fruit and Vegetable Processing industries manufacturing or producing—
   - *(i)* Canned or bottled products;
   - *(ii)* Aseptic packaged products;
   - *(iii)* Frozen products;
   - *(iv)* De-hydrated products;
   - *(v)* Oleoresins.
2. Meat and Poultry Product industries manufacturing or producing—
   - *(i)* Meat Products (buffalo, sheep, goat and pork);
   - *(ii)* Poultry production;
   - *(iii)* Egg Powder Plant.
3. Cereal Based Product industries manufacturing or producing—
   - *(i)* Maize Milling including starch and its derivatives;
   - *(ii)* Bread, Biscuits, Breakfast Cereal.
4. Food and Beverage industries manufacturing or producing—
   - *(i)* Snacks;
   - *(ii)* Non-alcoholic beverages;

(*iii*) Confectionery including chocolate;

(*iv*) Pasta products;

(*v*) Processed spices, etc.;

(*vi*) Processed Pulses;

(*vii*) Tapioca products.

5. Milk and milk based product industries manufacturing or producing—

(*i*) Milk powder;

(*ii*) Cheese;

(*iii*) Butter/ghee;

(*iv*) Infant food;

(*v*) Weaning food;

(*vi*) Malted milk food;

6. Food packaging industry.

7. Paper products industry.

8. Jute and mesta products industry.

9. Cattle or poultry or fishery feed products industry.

10. Edible Oil processing or vanaspati industry.

11. Processing of essential oils and fragrances industry.

12. Processing and raising of plantation crops-tea, rubber, coffee, coconuts, etc.

13. Gas based intermediate products industry manufacturing or producing—

(*i*) Gas exploration and production;

(*ii*) Gas distribution and bottling;

(*iii*) Power generation;

(*iv*) Plastics;

(*v*) Yarn raw materials;

(*vi*) Fertilizers;

(*vii*) Methanol;

(*viii*) Formaldehyde and FR resin melamine and MF resin;

(*ix*) Methylamine, Hexamethylene tetramine, Ammonium bi-carbonate;

(*x*) Nitric Acid and Ammonium Nitrate;

(*xi*) Carbon black;

(*xii*) Polymer chips;

14. Agro forestry based industry.

15. Horticulture industry.

16. Mineral based industry.

17. Floriculture industry.

18. Agro based industry.

PART B

For the State of Sikkim

S.No.	Activity or article or thing or operation
1.	Eco-Tourism including Hotels, Resorts, Spa, Amusement Parks and Ropeways.
2.	Handicrafts and handlooms.
3.	Wool and silk reeling, weaving and processing, printing, etc.
4.	Floriculture.
5.	Precision Engineering including watch making.
6.	Electronics including computronics hardware and software and Information Technology (IT) related industries.
7.	Food processing including Agro-based industries. Processing, preservation and packaging of fruits and vegetables (excluding conventional grinding/extraction units).
8.	Medicinal and aromatic herbs-Plantation and Processing.
9.	Raising and processing of plantation crops i.e., tea, oranges and cardamom.
10.	Mineral based industry.
11.	Pharma products.
12.	Honey.
13.	Biotechnology.

PART C

For the State of Himachal Pradesh and the State of Uttaranchal

S.No.	Activity or article or thing or operation	4/6digit excise classification	Sub-class under NIC classification on 1998	*ITC(HS) classification 4/6 digit
1.	Floriculture	—	—	0603 or 060120or 06029020 or 06024000
2.	Medicinal herbs and aromatic herbs, etc., processing	—	—	
3.	Honey	—	—	040900
4.	Horticulture and agro based industries such as			
	(a) Sauces, ketchup, etc.	21.03	15135 to 15137 and 15139	
	(b) Fruit juices and fruit pulp	2202.40		
	(c) Jams, jellies, vegetable juices, puree, pickles, etc.	20.01		
	(d) Preserved fruits and vegetables			
	(e) Processing of fresh fruits and vegetables including packaging			

S.No.	Activity or article nr thing or operation	4/6digit excise classification	Sub-class under NIC classification on 1998	*ITC(HS) classification 4/6 digit
	(f) Prncessing, preservation, packaging of mushrooms			
5.	Food Processing Industry excluding those included in the Thirteenth Schedule	19.01 to 19.04		
6.	Sugar and its by-products	-	-	17019100
7.	Silk and silk products	50.04 50.05	17116	
8.	Wool and wool products	51.01 to 51.12	17117	
9.	Wnven fabrics (Excisable garments)	-	-	6101 to 6117
10.	Spnrts goods and articles and equipment for general physical exercise and equipment for adventure spnrts/activities, tourism (to be specified, by notificatinn, by the Central Government)	9506.00		
11.	Paper and paper products excluding those in the Thirteenth Schedule (as per excise classificatinn)			
12.	Pharma products	30.03 to 30.05		
13.	Informatinn and Communication Technology Industry, Computer hardware, Call Centres	84.71	30006/7	
14.	Bottling of mineral water	2201		
15.	Ecn-tourism including hotels, resorts, spa, entertainment/amusement parks and ropeways	-	55101	
16.	Industrial gases (based nn atmnspheric fractinn)			
17.	Handicrafts			
18.	Non-timber forest product based industries",			

Wealth-tax

93. In section 17 of the Wealth-tax Act, 1957, in sub-section *(1)*, the words "not being less than thirty days," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989. Amendment of sectinn 17 of Act 27 of 1957.

Gift-tax

94. In section 16 of the Gift-tax Act, 1958, in sub-section *(1)*, the words "not being less than thirty days," shall be omitted and shall be deemed to have been omitted with effect from the 1st day of April, 1989. Amendment of section 16 of Act 18 of 1958.

Expenditure-tax

35 of 1987

95. In the Expenditure-tax Act, 1987 (hereinafter referred to as the Expenditure-tax Act.) in section 3, in clause *(1)*, for the words "incurred in a hotel", the words, figures and letters "incurred before the 1st day of June, 2003 in a hotel" shall be substituted with effect from the 1st day of June, 2003. Amendment of section 3.

96. In the expenditure-tax Act, in section 4, in clause *(a)*, after the words "the commencement of this Act", the words, figures and letters "but not after the 31st day of May, 2003" shall be inserted with effect from the 1st day of June, 2003. Amendment nf sectinn 4.

CHAPTER IV

INDIRECT TAXES

Customs

Amendment of section 2.

97. In section 2 of the Customs Act, 1962 (hereinafter referred to as the Customs Act), in clause *(1B)*, for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted. 52 of 1962.

Amendment of section 7.

98. Section 7 of the Customs Act shall be numbered as sub-section *(1)* thereof,—

(a) in sub-section *(1)* as so numbered, for the words "Central Government", the word "Board" shall be substituted;

(b) after-sub-section *(1)* as so numbered, the following sub-section shall be inserted, namely:—

"*(2)* Every notification issued under this section and in force immediately before the commencement of the Finance Act, 2003 shall, on such commencement, be deemed to have been issued under the provisions of this section as amended by section 98 of the Finance Act, 2003 and shall continue to have the same force and effect after such commencement until it is amended, rescinded or superseded under the provisions of this section.".

Amendment of section 15.

99. In section 15 of the Customs Act, in sub-section *(1)*, in clause *(b)*, for the words "the goods are actually removed from the warehouse", the words "a bill of entry for home consumption in respect of such goods is presented under that section" shall be substituted.

Amendment of section 25.

100. In section 25 of the Customs Act,—

(a) for sub-section *(2)*, the following sub-section shall be substituted, namely:—

"*(2)* If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from the payment of duty, under circumstances of an exceptional nature to be stated in such order, any goods on which duty is leviable.";

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

"*(6)* Notwithstanding anything contained in this Act, no duty shall be collected if the amount of duty leviable is equal to, or less than, one hundred rupees.",

Amendment of section 27.

101. In section 27 of the Customs Act, in sub-section *(2)*, in the first proviso, in clause *(a)*, after the word "importer", the words "or the exporter, as the case may be" shall be inserted.

Amendment of section 28.

102. In section 28 of the Customs Act, in sub-section *(1)*, the second and third provisos shall be omitted.

Amendment of section 28E.

103. In section 28E of the Customs Act,—

(a) for clause *(c)*, the following clause shall be substituted, namely:—

'*(c)* "applicant" means—

(i) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(ii) a resident setting up a joint venture in India in collaboration with a non-resident; or

(iii) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who proposes to undertake any business activity in India and makes application for advance ruling under sub-section *(1)* of section 28H;';

(b) for clause *(h)*, the following clause shall be substituted, namely:—

'*(h)* "non-resident", "Indian company" and "foreign company" have the meanings respectively assigned to them in clauses *(30)*, *(26)* and *(23A)* of section 2 of the Income-tax Act, 1961.'. 43 of 1961.

104. In section 28H of the Customs Act, in sub-section *(2)*, after clause *(c)*, the following clause shall be inserted, namely:— Amendment of section 28H.

"*(d)* applicability of notifications issued in respect of duties under this Act, the Customs Tariff Act, 1975 and any duty chargeable under any other law for the time being in force in the same manner as duty of customs leviable under this Act.". 51 of 1975.

105. In section 30 of the Customs Act, for sub-section *(1)*, the following sub-section shall be substituted, namely:— Amendment of section 30.

"*(1)* The person-in-charge of—

(i) a vessel; or

(ii) an aircraft; or

(iii) a vehicle,

carrying imported goods or any other person as may be specified by the Central Government, by notification in the Official Gazette, in this behalf shall, in the case of a vessel or an aircraft, deliver to the proper officer an import manifest prior to the arrival of the vessel or the aircraft, as the case may be, and in the case of a vehicle, an import report within twelve hours after its arrival in the customs station, in the prescribed form and if the import manifest or the import report or any part thereof, is not delivered to the proper officer within the time specified in this sub-section and if the proper officer is satisfied that there was no sufficient cause for such delay, the person-in-charge or any other person referred to in this sub-section, who causes such delay, shall be liable to a penalty not exceeding fifty thousand repees.".

106. In section 61 of the Customs Act,— Amendment of section 61.

(*a*) in sub-section (*1*),—

(*i*) in clause (*a*), the word "and" shall be omitted;

(*ii*) after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) in the case of goods other than capital goods intended for use in any hundred per cent. export-oriented undertaking, till the expiry of three years; and";

(*iii*) in the proviso, in clause (*i*), for the words, brackets and letters "clause (*a*) or clause (*b*)", the words, brackets and letters "clause (*a*) or clause (*aa*) or clause (*b*)" shall be substituted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*i*) for the word, brackets and letters "sub-clause (*a*)", the words, brackets and letters "sub-clause (*a*) or sub-clause (*aa*)" shall be substituted;

(*ii*) in clause (*ii*), for the words "thirty days", wherever they occur, the words "ninety days" shall be substituted.

107. In section 68 of the Customs Act, after clause (*c*), the following proviso shall be inserted, namely:— Amendment of section 68.

"Provided that the owner of any warehoused goods may, at any time before an order for clearance of goods for home consumption has been made in respect of such goods, relinquish his title to the goods upon payment of rent, interest, other charges and penalties that may be payable in respect of the goods and upon such relinquishment, he shall not be liable to pay duty thereon.".

Amendment of section 75A.

108. In section 75A of the Customs Act, in sub-section (*1*),—

(*a*) for the words "two months", wherever they occur, the words "onemonth" shall be substituted;

(*b*) the proviso shall be omitted.

Amendment of section 113.

109. In section 113 of the Customs Act,—

(*a*) in clauses (*c*), (*e*), (*f*), (*g*) and (*h*), the words "dutiable or prohibited", wherever they occur, shall be omitted;

(*b*) for clause (*i*) the following clause shall be substituted, namely:—

"(*i*) any goods entered for exportation which do not correspond in respect of value or in any material particular with the entry made under this Act or in the case of baggage with the declaration made under section 77;";

(*c*) in clause (*k*), the words "under a claim for drawback" shall be omitted.

Amendment of section 114.

110. In section 114 of the Customs Act,—

(*a*) in clause (*i*), for the words "not exceeding the value of the goods or five thousand rupees", the words "not exceeding three times the value of the goods as declared by the exporter or the value as determined under this Act" shall be substituted;

(*b*) for clause (*iii*), the following clause shall be substituted, nemely:—

"(*iii*) in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater.".

Amendment of section 122.

111. In section 122 of the Customs Act,—

(*a*) in clause (*b*), for the words "fifty thousand", the words "two lakh" shall be substituted;

(*b*) in clause (*c*), for the words "two thousand five hundred", the words "ten thousand" shall be substituted.

Amendment of section 129.

112. In section 129 of the Customs Act,—

(a) in sub-section *(1)* for the words and brackets "Gold (Control)", the words "Service tax" shall be substituted.

(b) in sub-section *(2),* for the words "Central Legal Service", the words "Indian Legal Service" shall be substituted;

(c) sub-section *(4A)* shall be omitted;

(d) in sub-section *(5),* for the words "The Senior Vice-President or a Vice-President", the words "A Vice-President" shall be substituted.

Substitution of new section for section 130.

113. For section 130 of the Customs Act, the following section shall be substituted, namely:—

Appeal to High Court.

"130. *(1)* An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to

the rate of duty of customs or to the value of goods for purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.

(2) The Commissioner of Customs or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(a) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of Customs or the other party;

(b) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;

(c) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(3) Where the High Cort is satisfied that a substantial question of law is involved in any case , it shall formulate that question.

(4) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which—

(a) has not been determined by the Appellate Tribunal; or

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section *(1)* .

(7) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(8) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section.". 5 of 1998.

114. In section 130A of the Customs Act, in sub-section *(1)*, for the words, figures and letters 'on or after the 1st day of July, 1999", the words, figures and letters "before the 1st day of July, 2003" shall be substituted. **Amendment of section 130A.**

115. In section 130D of the Customs Act,— **Amendment of section 130D.**

(a) after sub-section *(1)*, the following sub-section shall be inserted with effect from the 1st day of July, 2003, namely:—

"*(1A)* Where the High Court delivers a judgment in an appeal filed before it under section 130, effect shall be given to the order passed on the appeal by the proper officer on the basis of a certified copy of the judgment.";

(*b*) in sub-section (*2*), for the words "reference to the High Court or the Supreme Court", the words "reference to the High Court or an appeal to the High Court or the Supreme Court, as the case may be," shall be substituted.

Amendment of section 130E.

116. In section 130E of the Customs Act, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) any judgement of the High Court delivered—

(*i*) in an appeal made under section 130; or

(*ii*) on a reference made under section 130 by the Appellate Tribunal before the 1st day of July, 2003;

(*iii*) on a reference made under section 130A,

in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgement, the High Court certifies to be a fit one for appeal to the Supreme Court; or".

Amendment of section 135.

117. In section 135 of the Customs Act, in sub-section (*1*),—

(*a*) in clause (*a*), after the words "knowingly concerned", the words "in mis-declaration of value or" shall be inserted;

(*b*) in clause (*b*), for the word and figures "section 111,", the words and figures "section 111 or section 113, as the case may be, or" shall be substituted;

(*c*) after clause (*b*), the following clause shall be inserted, namely:—

"(*c*) attempts to export any goods which he knows or has reason to believe are liable to confiscation under section 113.".

Amendment of section 136.

118. In section136 of the Customs Act, in sub-section (*1*), for the words "connives at any act or thing whereby", the words "connives at any act or thin, whereby any fraudulent export is effected or" shall be substituted.

Amendment of notifications issued under section 25 of the Customs Act.

119. (*1*) The notifications of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R.423(E), dated the 3rd May, 1990 and G.S.R.423(E), dated the 20th April, 1992. issued under sub-section (*1*) of section 25 of the Customs Act by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column (3) of the Second Schedule, on and from the corresponding date mentioned in column (4) of that Schedule retrospectively and, accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be, and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(*2*) For the purpose of sub-section (*1*), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government has the power to amend the said notifications under sub-section (*1*) of section 25 of the Customs Act, retrospectively at all material times.

Amendment of notifications, relating to export promotion schemes issued under section 25 of the Customs Act.

120. (*1*) The notifications of the Government of Inda in the erstwhile Ministry of Finance (Department of Revenue) Nos. G.S.R.308 (E), dated the 31st March. 1995 G.S.R.309 (E), dated the 31st March. 1995 G.S.R.480 (E), dated the 5th June. 1995 G.S.R.657 (E), dated the 19th September, 1995, G.S.R.658 (E), dated the 19th September, 1995, G.S.R.184 (E), dated the 1st April. 1997, G.S.R.186 (E), dated the 1st April. 1997 G.S.R.187 (E), dated the 1st April. 1997, G.S.R.197 (E), dated the 7th April. 1997, G.S.R.216(E), dated the 11th April, 1997, G.S.R.623(E), dated the 16th October, 1998. G.S.R.299(E), dated the 29th April, 1999, G.S.R.366(E), dated the 27th April, 2000, and G.S.R.367(E), dated the 27th April, 2000, issued under sub-section (*1*) of

section 25 of the Customs Act by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column (3) of the Third Schedule, on and from the corresponding date mentioned in column (4) of that Schedule retrospectively and, accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be and always to have been, for all purposes, as validly and effectively, taken or done as if the notifications as amended by this sub-section had been in force at all material times.

(*2*) For the purposes of sub-section (*1*), the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section (*1*) of section 25 of the Customs Act, retropectively, at all material times.

(*3*) Refund shall be made of all amounts of interest which have been paid or, as the case may be, which have not been refunded but which would not have been paid or, as the case may be, which would have been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and subject to the provisions of this sub-section, the provisions of section 27 of the Customs Act shall be applicable for such refund.

Additional duty of costoms (tea and tea waste).

121. (*1*) In the case of goods specified in the Fourth Schedule, being goods imported into India, there shall be levied and collected for the purposes of the Union, by surcharge, an additional duty of customs, at the rate specified in the said Schedule.

(*2*) The additional duty of customs chargeable under sub-section (*1*) shall be in addition to any other duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force.

(*3*) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the additional duty of customs leviable under this section in respect of the goods specified in the Furth Schedule as they apply in relation to the levy and collection of the duties of customs on such goods under that Act or those rules and regulations, as the case may be.

Customs tariff

51 of 1975.

Amendment of sectioa 3.

122. In section 3 of the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act), in sub-section (*2*), in clause (*ii*), for the words, brackets and figure "but not including the duty referred to in sub-section (*1*)", the following shall be substituted and shall be deemed to have been substituted retrospectively on and from the 1st day of March, 2002, namely:—

"but does not include—

(*a*) the special additional duty referred to in section 3A;

(*b*) the safeguard duty referred to in sections 8B and 8C;

(*c*) the countervailing duty referred to in section 9;

(*d*) the anti-dumping duty referred to in section 9A; and

(*e*) the duty referred to in sub-section (*1*)".

Amendment of section 3A.

123. In section 3A of the Customs Tariff Act, in sub-section (*2*), in clause (*ii*), for the words, brackets and figure "but not including the special additional duty referred to in sub-section (*1*); and", the following shall be substituted and shall be deemed to have been substituted retrospectively on and from the 1st day of March, 2002 namely:—

"but does not include—

(*a*) the safeguard duty referred to in sections 8B and 8C;

(*b*) the countervailing duty referred to in section 9;

(*c*) the anti-dumping duty referred to in section 9A;

(*d*) the special additional duty referred to in sub-section (*1*); and".

Amendment of section 9 A.

124. In section 9A of the Customs Tariff Act, in sub-section (*1*), in the *Explanation,* in clause (*c*), in sub-clause (*ii*), in item (*a*), for the words "territory or", the words "territory to" shall be substituted.

Amendment of section 9C.

125. In section 9C of the Customs Tariff Act, in sub-section (*1*), for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted.

National Calamity Contingent Duty of Customs.

126. (*1*) In the case of goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule, being goods imported into India, there shall be levied and collected for the purposes of the Union, by surcharge, a duty of customs, to be called the National Calamity Contingent Duty of Customs (hereinafter referred to as the National Calamity Duty of Customs), at the rates specified in the said Seventh Schedule, as amended by the Thirteenth Schedule. 14 of 2001.

(*2*) The National Calamity Duty of Customs chargeable on the goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule shall be in addition to any other duties of customs chargeable on such goods under the Customs Act or any other law for the time being in force. 14 of 2001.

(*3*) For the purposes of calculating the National Calamity Duty of Customs under this section on any goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule, where such duty is leviable at any percentage of its value, the value of such goods shall be calculated in the same manner as the value of article for the purposes of additional duty is calculated under the provisions of sub-section (*2*) of section 3 of the Customs Tariff Act. 14 of 2001.

(*4*) The provisions of the Customs Act and the rules and regulations made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the National Calamity Duty of Customs leviable under this section in respect of the goods specified in the Seventh Schedule to the Finance Act, 2001 as amended by the Thirteenth Schedule, as they apply in relation to the levy and collection of the duties of customs on such goods under that Act, or those rules and regulations as the case may be. 14 of 2001.

Explanation.—for the removal of doubts, it is hereby declared that for the purposes of this section, on the expiry of the period of operation of the amendments made in the Seventh Schedule to the Finance Act, 2001 in terms of section 161, the said Seventh Schedule but for such amendment shall continue to operate as if the said amendment had not taken place. 14 of 2001.

Amendment of section 2.

127. In section 2 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act),— 1 of 1944.

(*a*) in clause (*aa*), for the words and brackets "Gold (Control)", the words "Service Tax" shall be substituted;

(*b*) in clause (*f*), for sub-clause (*iii*), the following sub-clause shall be substituted, namely:—

"(*iii*) which, in relation to the goods specified in the Third Schedule, involves packing or repacking of such goods in a unit container or labelling or re-labelling of containers including the declaration or alternation of retail sale price on it or adoption of any other treatment on the goods to render the product marketable to the consumer,".

Amendment of section 4.

128. In section 4 of the Central Excise Act, —

(*a*) in sub-section (*1*), the following *Explanation* shall be inserted at the end, namely:—

"*Explanation.*—For the removal of doubts, it is hereby declared that the price-cum-duty of the excisable goods sold by the assessee shall be the price actually paid to him for the goods sold and the money value of the additional consideration, if any, flowing directly or indirectly from the buyer to the assessee in connection with the sale of such goods, and such price-cum-duty, excluding sales tax and other taxes, if any, actually paid, shall be deemed to include the duty payable on such goods.";

(*b*) in sub-section (*3*),—

(*i*) in clause (*c*),—

(*A*) in sub-clause (*ii*), for the words "payment of duty,", the words "payment of duty;" shall be substituted;

(*B*) after sub-clause (*ii*), the following sub-clause shall be inserted, namely:—

"(*iii*) a depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearance from the factory,";

(*ii*) after clause (*c*), the following clause shall be inserted, namely:—

'(*cc*) "time of removal", in respect of the excisable goods removed from the place of removal referred to in sub-clause (*iii*) of clause (*c*), shall be deemed to be the time at which such goods are cleared from the factory;'.

Amendment of section 4A.

129. In section 4A of the Central Excise Act, for sub-section (*4*) the following shall be substituted, namely:—

'(*4*) Where any goods specified under sub-section (*1*) are excisable goods and the manufacturer—

(*a*) removes such goods from the place of manufacture, without declaring the retail sale price of such goods on the packages or declares a retail sale price which is not the retail sale price as required to be declared under the provisions of the Act, rules or other law as referred to in sub-section (*1*); or

(*b*) tampers with, obliterates or alters the retail sale price declared on the package of such goods after their removal from the place of manufacture,

then, such goods shall be liable to confiscation and the Central Government shall ascertain in the prescribed manner the retail sale price of such goods and the retail sale price so ascertained shall be deemed to be the retail sale price for the purpose of this section.

Explanation 1.—For the purposes of this section, "retail sale price" means the maximum price at which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertisement, delivery, packing, forwarding and the like and the price is the sole consideration for such sale:

Provided that in case the provisions of the Act, rules or other law as referred to in sub-section (*1*) require to declare on the package, the retail sale price excluding any taxes, local or otherwise, the retail sale price shall be construed accordingly.

Explanation 2.—For the purposes of this section,—

(*a*) where on the package of any excisable goods more than one retail sale price is declared, the maximum of such retail sale prices shall be deemed to be the retail sale price;

(*b*) where the retail sale price, declared on the package of any excisable goods at the time of its clearance from the place of manufacture, is altered to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price;

(*c*) where different retail sale prices are declared on different packages for the sale of any excisable goods in packaged form in different areas, each such retail sale price shall be the retail sale price for the purposes of valuation of the excisable goods intended to be sold in the area to which the retail sale price relates.'.

Amendment of section 5A.

130. In section 5A of the Central Excise Act, for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) If the Central Government is satisfied that it is necessary in the public interest so to do, it may, by special order in each case, exempt from payment of duty of excise, under circumstances of an exceptional nature to be stated in such order, any excisable goods on which duty of excise is leviable.".

Amendment of section 11A.

131. In Section 11A of the Central Excise Act,—

(*a*) in sub-section (*1*), the second and third provisos shall be omitted;

(*b*) in sub-section (*2B*), after the words "pay the amount of duty", the words "on the basis of his own ascertainment of such duty or on the basis of duty ascertained by a Central Excise Officer" shall be inserted.

Insertion of new section 11DD.

132. After section 11D of the Central Excise Act, the following section shall be inserted, namely:—

Interest on the amounts collected in excess of the duty.

"11DD. (*1*) Where an amount has been collected in excess of the duty assessed or determined and paid on any excisable goods under this Act or the rules made thereunder from the buyer of such goods, the person who is liable to pay such amount as determined under sub-section (*3*) of section 11D, shall, in addition to the amount, be liable to pay interest at such rate not below ten per cent., and not exceeding thirty-six per cent. per annum, as is for the time being fixed by the Central Government, by notification in the Official Gazette, from the first day of the month succeeding the month in which the amount ought to have been paid under this Act, but for the provisions contained in sub-section (*3*) of section 11D, till the date of payment of such amount:

Provided that in such cases where the amount becomes payable consequent to issue of an order, instruction or direction by the Board under section 37B, and such amount payable is voluntarily paid in full, without reserving any right to appeal against such payment at any subsequent stage, within forty-five days from the date of issue of such order, instruction or direction, as the case may be, no interest shall be payable and in other cases the interest shall be payable on the whole amount, including the amount already paid.

(*2*) The provision of sub-section (*1*) shall not apply to cases where the amount had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the President.

Explanation 1.—Where the amount determined under sub-section (*3*) of section 11D is reduced by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section (*1*) shall be on such reduced amount.

Explanation 2.—Where the amount determined under sub-section (*3*) of section 11D is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, the interest payable thereon under sub-section (*1*) shall be on such increased amount."

Substitution of new section for section 13.

133. For section 13 of the Central Excise Act, the following section shall be substituted, namely:—

Power to arrest.

"13. Any Central Excise Officer not below the rank of Inspector of Central Excise may, with the prior approval of the Commissioner of Central Excise, arrest any person whom he has reason to believe to be liable to punishment under this Act or the rules made thereunder".

Amendment of section 23A.

134. In section 23A of the Central Excise Act,—

(*a*) for clause (*c*), the following clause shall be substituted, namely:—

(*c*)" applicant" means—

(*i*) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(*ii*) a resident setting up a joint venture in India in collaboration with a non-resident; or

(*iii*) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who proposes to undertake any business activity in India an makes application for advance ruling;';

(*b*) for clause (*f*), the following clause shall be substituted, namely:-

'(*f*)" non-resident", "Indian company" and "foreign company" shall have the meanings respectively assigned to them in clauses (*30*), (*26*) and(*23A*) of section 2 of the Income-tax Act, 1961.'. 43 of 1961.

Amendment of section 23C.

135. In section 23C of the Central Excise Act, in sub-section (*2*), after clause (*c*), the following clauses shall be inserted, namely:—

"(*d*) notifications issued, in respect of duties of excise under this Act, the Central Excise Tariff Act, 1985 and any duty chargeable under any other law for the time being in force in the same manner as duty of excise leviable under this Act; 5 of 1986.

(*e*) admissibility of credit of excise duty paid or deemed to have been paid on the goods used in or in relation to the manufacture of the excisable goods.".

Substitution of new section for section 35G.

136. For section 35G of the Central Excise Act, the following section shall be substituted, namely:—

Appeal to High Court.

"35G. (*1*) An appeal shall lie to the High Court from every order passed in appeal by the Appellate Tribunal on or after the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment), if the High Court is satisfied that the case involves a substantial question of law.

(*2*) The Commissioner of Central Excise or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be—

(*a*) filed within one hundred and eighty days from the date on which the order appealed against is received by the Commissioner of Central Excise or the other party;

(*b*) accompanied by a fee of two hundred rupees where such appeal is filed by the other party;

(*c*) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(*3*) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(*4*) The appeal shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law not formulated by it, if it is satisfied that the case involves such question.

(*5*) The High Court shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(*6*) The High Court may determine any issue which—

(*a*) has not been determined by the Appellate Tribunal; or

(*b*) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (*1*).

(*7*) When an appeal has been filed before the High Court, it shall be heard by a bench of not less than two Judges of the High Court, and shall be decided in accordance with the opinion of such Judges or of the majority, if any, of such Judges.

(*8*) Where there is no such majority, the Judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other Judges of the High Court and such point shall be decided according to the opinion of the majority of the Judges who have heard the case including those who first heard it.

(*9*) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section." 5 of 1908.

Amendment of section 35H.

137. In section 35H of the Central Excise Act, in sub-section (*1*), for the words, figures and letters "on or after the 1st day of July, 1999", the words, figures and letters "before the 1st day of July, 2003" shall be substituted.

Amendment of section 35K.

138. In section 35K of the Central Excise Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted with effect from the 1st day of July, 2003, namely:—

"(*1A*) Where the High Court delivers a judgment in an appeal filed before it under section 35G, effect shall be given to the order passed on the appeal by the concerned Central Excise Officer on the basis of a certified copy of the judgment.";

(*b*) in sub-section (*2*), for the words "reference to the High Court or the Supreme Court", the words "reference to the High Court or an appeal to the High Court or the Supreme Court, as the case may be" shall be substituted.

Amendment of section 35L.

139. In section 35L of the Central Excise Act, for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) any judgment of the High Court delivered—

(*i*) in an appeal made under section 35G; or

(*ii*) on a reference made under section 35G by the Appellate Tribunal before the 1st day of July, 2003;

(*iii*) on a reference made under section 35H,

in any case which, on its own motion or on an oral application made by or on behalf of the party aggrieved, immediately after passing of the judgment, the High Court certifies to be a fit one for appeal to the Supreme court; or".

Insertion of new Schedule in the Central Excise Act.

140. After the Second Schedule to the Central Excise Act, the Schedule specified in the Fifth Schedule shall be inserted.

Amendment of rule 57R of the Central Excise Rules, 1944.

141. (*1*) In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, in rule 57R,—

(*a*) sub-rule (*5*) as substituted by the Central Excise (Third Amendment) Rules, 1996, published in the Official Gazette, *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 324(*E*), dated the 23rd July, 1996; and

(*b*) sub-rule (*8*) as inserted by the Central Excise (Amendment) Rules, 1997, published in the Official Gazette, *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 122(*E*), dated the 1st March, 1997,

shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (*3*) of the Sixth Schedule on and from the corresponding date specified in column (*4*) of that Schedule against each of said sub-rules specified in column (*2*) of that Schedule till the date on which those sub-rules were superseded and accordingly, notwithstanding anything contained in any judgment, decree or order on any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said sub-rules as so amended, shall be deemed to be, and always to have been, for all purposes, as validly and effectively, taken or done as if the said sub-rules, as amended by this sub-section, had been in force at all material times.

(*2*) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section (*1*), for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

(*3*) Credit shall be allowed of all such specified duty, which have been disallowed but which would not have been disallowed if the amendment made by sub-section (*1*) had been in force at all material times.

(*4*) Refund shall be made of all such credit of specified duty, which have been collected but which would have not been collected if the amendment made by sub-section (*1*) had been in force at all material times.

(*5*) Notwithstanding anything contained in section 11B of the Central Excise Act, an application for the claim of refund of the credit of the specified duty paid on capital goods under sub-section (*3*) shall be made within six months from the day on which the Finance Bill, 2003 receives the assent of the President.

Explanation.—For the purposes of this section, the expression "specified duty" shall have the meaning assigned to it in rule 57Q of the Central Excise Rules, 1944 referred to in sub-section (*1*).

Amendment of rules 57F and 57AB of the Central Excise Rules, 1944.

142. *(1)* In the Central Excise Rules, 1944, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act,—

(*a*) in rule 57F, sub-rule (*12*), as substituted by clause (*a*) of rule 8 of the Central Excise (Amendment) Rules, 1997, published in the Official Gazette *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 122 (*E*), dated the 1st March, 1997; and

(b) in rule 57AB, in sub-rule (*1*), clause (*b*), as substituted by rule 5 of the Central Excise (Second Amendment) Rules, 2000, published in the Official Gazette *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 203(*E*), dated the 1st March, 2000,

shall stand amended and shall be deemed to have been amended retrospectively in the manner as specified in column (*3*) of the Sixth Schedule, on and from the corresponding date specified in column (*4*) of that Schedule against each of the said sub-rules specified in column (*2*) of that Schedule till the date on which those sub-rules, were superseded.

(*2*) Any action taken or anything done or purported to have been taken or done, at any time during the period commencing on and from the 8th day of July, 1999 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the credit of specified duty or the CENVAT credit, as the case may be to be taken or utilised which would have been allowed to be taken or utilised but for the amendments made by sub-section (*1*), shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendments made by sub-section (*1*) had been in force at all material times, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(*a*) no suit or other proceedings shall be maintained or continued in any court for allowing the credit of specified duty or the CENVAT credit, as the case may be, and no enforcement shall be made by any court of any decree or order allowing the credit of specified duty or the CENVAT credit, as the case may be, not allowed to be taken or utilised as if the amendments made by sub-section *(1)* had been in force at all material times;

(b) recovery shall be made of all the credit of specified duty or the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendments made by sub-section *(1)* had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such credit of duties within this period, in addition to the amount of credit of such duties recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) Notwithstanding the supersession of the Central Excise Rules, 1944 referred to in sub-section *(1)*, for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make the rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.—For the purposes of this section, the expressions "specified duty" and "CENVAT credit" have the meanings respectively assigned to them in rules 57A and 57AB of the Central Excise Rules, 1944 referred to in sub-section *(1)*.

Amendment of rule 3 of the CENVAT Credit Rules, 2001.

143. *(1)* In the CENVAT Credit Rules, 2001, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, sub-rule *(3)* of rule 3 thereof as published in the Official Gazette *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 445(E), dated the 21st June, 2001 shall stand amended and shall be deemed to have been amended retropectively in the manner as specified in column (2) of the Seventh Schedule, on and from the corresponding date specified in column (3) of that Schedule till the date on which the said CENVAT Credit Rules were superseded.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of July, 2001 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the CENVAT credit to be taken or utilised which would have been allowed to be taken or utilised, but for the amendment made by sub-section *(1)*, shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section *(1)* had been in force at all material times, and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the CENVAT credit and no enforcement shall be made by any court of any decree or order allowing the CENVAT credit not allowed to be taken or utilised if the amendment made by sub-section *(1)* had been in force at all material times;

(b) recovery shall be made of all the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendment made by sub-section *(1)* had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such CENVAT credit within this period, in addition to the amount of such CENVAT credit recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) Notwithstanding the supersession of the CENVAT Credit Rules, 2001 referred to in sub-section *(1)*, for the purposes of that sub-section, the Central Government shall have and shall be deemed to have the power to make the rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1. —For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had come into force.

Explanation 2.—For the purposes of this section, the expression "CENVAT credit" shall have the meaning assigned to it in the CENVAT Credit Rules, 2001 referred to in sub-section *(1)*.

Amendment of rule 3 of the CENVAT Credit Rules, 2002.

144. *(1)* In the CENVAT Credit Rules, 2002, made by the Central Government in exercise of the powers conferred by section 37 of the Central Excise Act, in rule 3, in sub-rule *(3)*, the second proviso, as inserted by the CENVAT Credit (Amendment) Rules, 2002, published in the Official Gazettee *vide* notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No. G.S.R. 835(E), dated the 23rd December, 2002 shall be deemed to have and to have always had effect on and from the 1st day of March, 2002.

(2) Any action taken or anything done or purported to have been taken or done at any time during the period commencing on and from the 1st day of March, 2002 and ending with the day on which the Finance Bill, 2003 receives the assent of the President, under the Central Excise Act or any rules made thereunder for not allowing the CENVAT credit to be taken or utilised which would have been allowed to be taken or utilised but for the amendment

made by sub-section (1), shall be deemed to be, and to always have been, for all purposes, as validly and effectively taken or done as if the amendment made by sub-section *(1)* had been in force at all material times, and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority—

(a) no suit or other proceedings shall be maintained or continued in any court for allowing the CENVAT credit and no enforcement shall be made by any court of any decree or order allowing the CENVAT credit not allowed to be taken or utilised if the amendment made by sub-section (1) had been in force at all material times.

(b) recovery shall be made of all the CENVAT credit, which have been taken and utilised but which would not have been allowed to be taken and utilised, if the amendment made by sub-section *(1)* had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President and in the event of non-payment of such CENVAT credit within this period, in addition to the amount of such CENVAT credit recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days till the date of payment.

(3) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to make rules with retrospective effect as if the Central Government had the power to make rules under section 37 of the Central Excise Act, retrospectively at all material times.

Explanation 1.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

Explanation 2.—For the purposes of this section, the expression "CENVAT credit" has the meaning assigned to it in the CENVAT credit Rules, 2002 referred to in sub-section *(1)*.

Amendment of notifications issued under section 5A of the Central Excise Act for certain period.

145. *(1)* The notifications of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) Nos. G.S.R. 508 (E), dated the 8th July, 1999 and G.S.R. 509(E), dated the 8th July, 1999, issued under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section *(3)* of section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978 by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified in the Eighth Schedule, on and from the 8th day of July, 1999 to the 22nd day of December, 2002 (both days inclusive) retrospectively, and accordingly, notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times. 58 of 1957. 40 of 1978.

(2) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section (3) of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section (3) of section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978, retrospectively at all material times. 58 of 1957. 40 of 1978.

(3) Notwithstanding the cessation of the amendment under sub-section *(1)* on the 22nd day of December, 2002, no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, tribunal or other authority of any decree or order relating to such action taken or anything done or omitted to be done as if the amendment made by sub-section *(1)* had been in force at all material times.

(4) Notwithstanding the cessation of the amendment under sub-section *(1)* on the 22nd day of December, 2002, recovery shall be made of all amounts of duty or interest or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would not have been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable, from the date immediately after the expiry of the said period of thirty days, till the date of payment.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in sub-section *(1)* had not been amended retrospectively by that sub-section.

Amendment of notifications issued under section 5A of the Central Excise Act.

146. *(1)* The notifications of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) Nos. G.S.R. 508 (E), dated the 8th July, 1999 and G.S.R. 509 (E), dated the 8th July, 1999, issued under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section (3) of section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978, by the Central Government shall stand amended and shall be deemed to have been amended in the manner as specified against each of them in column (3) of the Ninth Schedule, on and from the corresponding date specified in column (*4*) of that Schedule retrospectively, and accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authority, any action taken or anything done or purported to have been taken or done under the said notifications, shall be deemed to be and always to have been, for all purposes, as validly and effectively taken or done as if the notifications as amended by this sub-section had been in force at all material times.

58 of 1957.
40 of 1978.

(2) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to amend the notifications referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notifications under sub-section *(1)* of section 5A of the Central Excise Act read with sub-section *(3)* of section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957 and sub-section *(3)* of section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978, retrospectively at all material times.

58 of 1957.
40 of 1978.

(3) No suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for any action taken or anything done or omitted to be done, in respect of any goods under the said notifications, and no enforcement shall be made by any court, Tribunal or other authority of any decree or order relating to such action taken or anything done or omitted to be done as if the amendments made by sub-section *(1)* had been if force at all material times.

(4) Recovery shall be made of all amounts of duty or interest or other charges which have not been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, which would have not been refunded if the provisions of this section had been in force at all material times, within a period of thirty days from the day on which the Finance Bill, 2003 receives the assent of the President, and in the event of non-payment of duty or interest or other charges so recoverable, interest at the rate of fifteen per cent. per annum shall be payable from the date immediately after the expiry of the said period of thirty days till the date of payment.

Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if the notifications referred to in sub-section (1) had not been amended retrospectively by that sub-section.

Central Excise Tariff

Amendment of First and Second Schedules to Act 5 of 1986.

147. In the Central Excise Tariff Act, 1985 (hereinafter referred to as the Central Excise Tariff Act),—

(a) the First Schedule shall be amended in the manner as specified in the Tenth Schedule;

(b) the Second Schedule shall be amended in the manner as specified in the Eleventh Schedule.

Amendment of Second Schedule to Act 58 of 1957.

148. In the Additional Duties of Excise (Goods of Special Importance) Act, 1957, in the Second Schedule, in paragraph 4, in sub-paragraph *(i)*, for the proviso, the following proviso shall be substituted, with effect from such date as may be notified by the Central Government in the Official Gazette for this purpose, namely:—

"Provided that, if during each of the financial years commencing on and after the 1st day of April, 2003, there is levied and collected in any State a tax on the sale or purchase of the goods described in column (3) of the First Schedule at a rate exceeding four per cent., of the value of such goods determined in accordance with section 4 of the Central Excise Act, 1944, no sums hall be payable to that State, under this paragraph in respect of that financial year, unless the Central Government, by special order, otherwise directs." 1 of 1994.

Additional duty of excise (tea and tea waste).

149. *(1)* In the case of goods specified in the Fourth Schedule, being goods manufactured in India, there shall be levied and collected for the purposes of the Union, by surcharge, an additional duty of excise, at the rate specified in the said Schedule.

(2) The additional duty of excise referred to in sub-section *(1)*, shall be in addition to any other duties of excise chargeable on such goods under the Central Excise Act or any other law for the time being in force.

(3) The provisions of the Central Excise Act and the rules made thereunder, including those relating to refunds and exemptions from duties and imposition of penalty, shall, as far as may be, apply in relation to the levy and collection of the additional duty of excise leviable under this section in respect of the goods specified in the Fourth Schedule as they apply in relation to the levy and collection of the duties of excise on such goods under that Act or those rules, as the case may be.

CHAPTER V

SERVICE TAX

Modification of Act 32 of 1994.

150. During the period commencing on and from the 16th day of July, 1997 and ending with the 16th day of October, 1998, the provisions of Chapter V of the Finance Act, 1994, as modified by section 116 of the Finance Act, 2000, shall have and shall be deemed to have had effect subject to the following further modifications, namely:— 10 of 2000.

(a) in section 68, in sub-section *(1)*, the following proviso shall be inserted at the end and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely:—

"Provided that—

(i) in relation to services provided by a clearing and forwarding agent, every person who engages a clearing and forwarding agent and by whom remuneration or commission (by whatever name called) is paid for such services to the said agent for the period commencing on and from the 16th day of July, 1997 and ending with the 16th day of October, 1998; or

(ii) in relation to services provided by goods transport operator, every person who pays or is liable to pay the freight either himself or

through his agent for the transportation of goods by road in a goods carriage for the period commencing on and from the 16th day of November, 1997 and ending with the 2nd day of June, 1998,

shall be deemed to be a person liable to pay service tax, for such services provided to him, to the credit of the Central Government.";

(b) after section 71, the following section shall be inserted and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely:—

Filling of return by certain customers.

"71A. Notwithstanding anything contained in the provisions of sections 69 and 70, the provisions thereof shall not apply to a person referred to in the proviso to sub-section *(1)* of section 68 for the filling of return in respect of service tax for the respective period and service specified therein and such person shall furnish return to the Central Excise Officer within six months from the day on which the Finance Bill, 2003 receives the assent of the President in the prescribed manner on the basis of the self assessment of the service tax and the provisions of section 71 shall apply accordingly.";

(c) in section 94, in sub-section *(2)*, after clause *(c)*, the following clause shall be inserted and shall be deemed to have been inserted on and from the 16th day of July, 1997, namely:—

"*(cc)* the manner of furnishing return under section 71A;".

Amendment of Act 32 of 1994.

151. In the Finance Act, 1994,—

(a) for section 65, the following sections shall be substituted, namely:—

Definitions.

'65. In this Chapter, unless the context otherwise requires,—

(1) "actuary" has the meaning assigned to it in clause *(1)* of section 2 of the Insurance Act, 1938;

4 of 1938.

(2) "advertisement" includes any notice, circular, label, wrapper, document, hoarding or any other audio or visual representation made by means of light, sound, smoke or gas;

(3) "advertising agency" means any commercial concern engaged in providing any service connected with the making, preparation, display or exhibition of advertisement and includes an advertising consultant;

(4) "air travel agent" means any person engaged in providing any service connected with the booking of passage for travel by air;

(5) "Appellate Tribunal" means the Customs, Excise and Service Tax Appellate Tribunal constituted under section 129 of the Customs Act, 1962;

52 of 1962.

(6) "architect" means any person whose name is, for the time being, entered in the register of architects maintained under section 23 of the Architects Act, 1972 and also includes any commercial concern engaged in any manner, whether directly or indirectly, in rendering services in the field of architecture;

20 of 1972.

(7) "assessee" means a person liable to pay the service tax and includes his agent;

(8) "authorised dealer of foreign exchange" has the meaning assigned to "authorised person" in clause (*c*) of section 2 of the Foreign Exchange Management Act, 1999;

42 of 1999.

(9) "authorised service station" means any service station, or centre, authorised by any motor vehicle manufacturer, to carry out any service or

repair of any motor car, maxicab or two wheeled motor vehicle manufactured by such manufacturer;

(10) "banking" has the meaning assigned to it in clause (*b*) of section 5 of the Banking Regulation Act, 1949; 10 of 1949.

(11) "banking company" has the meaning assigned to it in clause (*a*) of section 45A of the Reserve Bank of India Act, 1934; 2 of 1934.

(12) "banking and other financial service" means—

(a) the following services provided by a banking company or a financial institution including a non-banking financial company or any other body corporate, namely:—

(i) financial leasing services including equipment leasing and hire-purchase by a body corporate;

(ii) credit card services;

(iii) merchant banking services;

(iv) securities and foreign exchange (forex) broking;

(v) asset management including portfolio management, all forms of fund management, pension fund management, custodial, depository and trust services, but does not include cash management;

(vi) advisory and other auxiliary financial services including investment and portfolio research and advice, advice on mergers and acquisitions and advice on corporate restructuring and strategy; and

(vii) provision and transfer of information and data processing;

(b) foreign exchange broking provided by a foreign exchange broker other than those covered under sub-clause *(a)*;

(13) "Board" means the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963; 54 of 1963.

(14) "body corporate" has the meaning assigned to it in clause *(7)* of section 2 of the Companies Act, 1956; 1 of 1956.

(15) "broadcasting " has the meaning assigned to it in clause *(c)* of section 2 of the Prasar Bharti (Broadcasting Corporation of India) Act, 1990 and also includes programme selection, scheduling or presentation of sound or visual matter on a radio or a television channel that is intended for public listening or viewing, as the case may be; and in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes the activity of selling of time slots or obtaining sponsorships for broadcasting of any programme or collecting the broadcasting charges on behalf of the said agency or organisation by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner; 25 of 1990.

(16) "broadcasting agency or organisation" means any agency or organisation engaged in providing service in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes its branch office or subsidiary or representative in India or any agent appointed

in India or any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges on behalf of the said agency or organisation;

(17) "beauty treatment" means face and beauty treatment, cosmetic treatment, manicure, pedicure or counselling services on beauty, face care or make-up;

(18) "beauty parlour" means any establishment providing beauty treatment services;

(19) "business auxilliary service" means any service in relation to,—

(i) promotion or marketing or sale of goods produced or provided by or belonging to the client; or

(ii) promotion or marketing of service provided by the client; or

(iii) any customer care service provided on behalf of the client; or

(iv) any incidental or auxilliary support service such as billing, collection or recovery of cheques, accounts and remittance, evaluation of prospective customer and public relation services,

and includes services as a commission agent, but does not include any information technology service.

Explanation.—For the removal of doubts, it is hereby declared that for the purposes of this clause "information technology service" means any service in relation to designing, developing or maintaining of computer software, or computerized data processing or system networking, or any oher service primarily in relation to operation of computer systems;

(20) "cab" means a motorcab or maxicab;

(21) "cable operator" has the meaning assigned to it in clause *(aa)* of section 2 of the Cable Television Networks (Regulation) Act, 1995;

7 of 1995.

(22) "cable service" has the meaning assigned to it in clause *(b)* of section 2 of the Cable Television Networks (Regulation) Act, 1995;

7 of 1995.

(23) "cargo handling service" means loading, unloading, packing or unpacking of cargo and includes cargo handling services provided for freight in special containers or for non-containerised freight, services provided by a container freight terminal or any other freight terminal, for all modes of transport and cargo handling service incidental to freight, but does not include handling of export cargo or passenger baggage or mere transportation of goods;

(24) "caterer" means any person who supplies, either directly or indirectly, any food, edible preparations, alcoholic or non-alcoholic beverages or crockery and similar articles or accoutrements for any purpose or occasion;

(25) "clearing and forwarding agent" means any person who is engaged in providing any service, either directly or indirectly, connected with the clearing and forwarding operations in any matter to any other person and includes a consignment agent;

(26) "commercial training or coaching" means any training or coaching provided by a commercial training or coaching centre;

(27) "commercial training or coaching centre" means any institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than the sports, with or without issuance of a certificate and includes coaching or tutorial classes but does not include preschool coaching and training centre or any institute or establishment which issues any certificate or diploma or degree or any educational qualification recognised by law for the time being in force;

(28) "commissioning or installation" means any service provided by a commissioning and installation agency in relation to commissioning or installation of plant, machinery or equipment;

(29) "commissioning and installation agency" means any agency providing service in relation to commissioning or installation;

(30) "computer network" has the meaning assigned to it in clause *(j)* of sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(31) "consulting engineer" means any professionally qualified engineer or an engineering firm who, either direclty or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering;

(32) "convention" means a formal meeting or assembly which is not open to the general public, but does not include a meeting or assembly, the principal purpose of which is to provide any type of amusement, entertainment or recreation;

(33) "courier agency" means a commercial concern engaged in the door-to-door transportation of time-sensitive documents, goods or articles utilising the services of a person, either directly or indirectly, to carry or accompany such documents, goods or articles;

(34) "credit rating agency" means any commercial concern engaged in the business of credit rating of any debt obligation or of any project or programme requiring finance, whether in the form of debt or otherwise, and includes credit rating of any financial obligation, instrument or security, which has the purpose of providing a potential investor or any other person any information pertaining to the relative safety of timely payment of interest or principal;

(35) "custom house agent" means a person licensed, temporarily or othrwise, under the regulations made under sub-section (*2*) of section 146 of the Customs Act, 1962; 52 of 1962.

(36) "data" has the meaning assigned to it in clause (*o*) of sub-section (*1*) of section 2 of the Information Technology Act, 2000; 21 of 2000.

(37) "dry cleaning" includes dry cleaning of apparels, garments or other textile, fur or leather articles;

(38) "dry cleaner" means any commercial concern providing service in relation to dry cleaning;

(39) "electronic form" has the meaning assigned to it in clause *(r)* of sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(40) "event management" means any service provided in relation to planning, promotion, organising or presentation of any arts, entertainment, business, sports or any other event and includes any consultation provided in this regard;

(41) "event manager" means any person who engaged in providing any service in relation to event management in any manner;

(42) "facsimile *(FAX)"* means a form of telecommunication by which fixed graphic images, such as printed texts and pictures are scanned and the information converted into electrical signals for transmission over the telecommunication system;

(43) "fashion designing" includes any activity relating to conceptualising, outlining, creating the designs and preparing patterns for costumes, apparels, garments, clothing accessories, jewellery or any other articles intended to be worn by human beings and any other service incidental thereto;

(44) "fashion designer" means any person engaged in providing service in relation to fashion designing;

(45) "financial institution" has the meaning assigned to it clause (c) of section 45-1 of the Reserve Bank of India Act, 1934; 2 of 1934.

(46) "foreign exchange broker" includes any authorised dealer of foreign exchange;

(47) "franchise" means an agreement by which—

(i) franchisee is granted representational right to sell or manufacture goods or to provide service or undertake any process identified with franchisor, whether or not a trade mark, service mark, trade name or logo or any such symbol, as the case may be, is involved;

(ii) the franchisor provides concepts of business operation to franchisee, including know how, method of operation, managerial expertise, marketing technique or training and standards of quality control except passing on the ownership of all know how to franchisee;

(iii) the franchisee is required to pay to the franchisor, directly or indirectly, a fee; and

(iv) the franchisee is under an obligation not to engage in selling or providing similar goods or services or process, identified with any other person;

(48) "franchisor" means any person who enters into franchise with a franchisee and includes any associate of franchisor or a person designated by franchisor to enter into franchise on his behalf and the term "franchisee" shall be construed accordingly;

(49) "general insurance business" has the meaning assigned to it in clause *(g)* of section 3 of the General Insurance Business (Nationalisation) Act, 1972; 57 of 1972.

(50) "goods" has the meaning assigned to it in clause *(7)* of section 2 of the Sale of Goods Act, 1930; 3 of 1930.

(51) "health and fitness service" means service for physical well being such as, sauna and steam bath, turkish bath, solarium spas, reducing

or slimming salons, gymnasium, yoga, meditation, massage (excluding therapeutic massage) or any other like service;

(52) "health club and fitness centre" means any establishment, including a hotel or a resort, providing health and fitness service;

(53) "information" has the meaning assigned to it in cluase *(v) of* sub-section *(1)* of section 2 of the Information Technology Act, 2000; 21 of 2000.

(54) "insurance agent" has the meaning assigned to it in clause *(10)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(55) "insurance auxiliary service" means any service provided by an actuary, an intermediary or insurance intermediary or an insurance agent in relation to general insurance business or life insurance business and includes risk assessment, claim settlement, survey and loss assessment;

(56) "intermediary or insurance intermediary" has the meaning assigned to it in clause *(f)* of sub-section *(1)* of section 2 of the Insurance Regulatory and Development Authority Act, 1999; 41 of 1999.

(57) "internet cafe" means a commercial establishment providing facility for accessing internet;

(58) "insurer" means any person carrying on the general insurance business or life insurance business in India;

(59) "interior decorator" means any person engaged, whether directly or indirectly, in the business of providing by way of advice, consultancy, technical assistance or in any other manner, services related to planning, design or beautification of spaces, whether man-made of otherwise and includes a landscape designer;

(60) "leased circuit" means a dedicated link provided between two fixed locations for exclusive use of the subscriber and includes a speech circuit, a data circuit or a telegraph circuit;

(61) "life insurance business" has the meaning assigned to it in clause *(11)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(62) "megnetic storage device" includes wax blanks, discs or blanks, strips or films for the purpose of original sound recording;

(63) "maintenance or repair" means any service provided by—

(i) any person under a maintenance contract or agreement; or

(ii) a manufacturer or any person authorised by him,

in relation to maintenance or repair or servicing of any goods or equipment, excluding motor vehicle;

(64) "management consultant" means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to conceptualising, devising, development, modification, rectification or upgradation of any working system of any organisation;

(65) "mandap" means any immovable property as defined in section 3 of the Transfer of Property Act, 1882 and includes any furniture, fixtures, 4 of 1882.

light fittings and floor coverings therein let out for a consideration for organisation any official, social or business function;

(66) "mandap keeper" means a person who allows temporary occupation of a mandap for a consideration for organisation any official, social or business function;

(67) "manpower recruitment agency" means any commercial concern engaged in providing any service, directly or indirectly, in any manner for recruitment of manpower, to a client;

(68) "market research agency" means any commercial concern engaged in conducting market research in any manner, in relation to any product, service or utility, including all types of customised and syndicated research services;

(69) "maxicab" has the meaning assigned to it in clause *(22)* of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(70) "motorcab" has the meaning assigned to it in clause *(25)* of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(71) "motor car" has the meaning assigned to it in clause *(26)* of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(72) "motor vehicle" has the meaning assigned to it in cluase *(28)* of section 2 of the Motor Vehicles Act, 1988; 59 of 1988.

(73) "non-banking financial company" has the meaning assigned to it in clause *(f)* of section 45-I of the Reserve Bank of India Act, 1934; 2 of 1934.

(74) "on-line information and database assess or retrieval" means providing data or information, retrievable or otherwise, to a customer, in electronic form through a computer network;

(75) "other port" has the meaning assigned to "port" in cluase *(4)* of section 3 of the Indian Ports Act, 1908, but does not include the port defined in clause *(80);* 15 of 1908.

(76) "pager" means an instrument, apparatus or appliance which is a non-speech, one way personal calling system with alert and has the capability of receiving, storing and displaying numeric or alpha-numeric messages;

(77) "photography" includes still photography, motion picture photography, laser photography, aerial photography or fluorescent photography;

(78) "photography studio or agency" means any professional photographer or a commercial concern engaged in the business of rendering service relating to photography;

(79) "policy holder" has the meaning assigned to it in clause *(2)* of section 2 of the Insurance Act, 1938; 4 of 1938.

(80) "port" has the meaning assigned to it in clause *(q)* of section 2 of the Major Port Trusts Act, 1963; 38 of 1963.

(81) "port service" means any service rendered by a port or other port or any person authorised by such port or other port, in any manner, in relation to a vessel or goods;

(82) "practising chartered accountant" means a person who is a member of the Institute of Chartered Accountants of India and is holding

a certificate of practice granted under the provisions of the Chartered Accountants Act, 1949 and includes any concern engaged in rendering services in the field of chartered accountancy; 38 of 1949.

(83) "practising cost accountant" means a person who is a member of the Institute of Cost and Works Accountants of India and is holding a certificate of practice granted under the provisions of the Cost and Works Accountants Act, 1959 and includes any concern engaged in rendering services in the field of cost accountancy; 23 of 1959.

(84) "practising company secretary" means a person who is a member of the Institute of Company Secretaries of India and is holding a certificate of practice granted under the provisions of the Company Secretaries Act, 1980 and includes any concern engaged in rendering services in the field of company secretaryship; 56 of 1980.

(85) "prescribed" means prescribed by rules made under this Chapter;

(86) "rail travel agent" means any person engaged in providing any service connected with booking of passage for travel by rail;

(87) "real estate agent" means a person who is engaged in rendering any service in relation to sale, purchase, leasing or renting, of real estate and includes a real estate consultant;

(88) "real estate consultant" means a person who renders in any manner, either directly or indirectly, advice, consultancy or technical assistance, in relation to evaluation, conception, design, development, construction, implementation, supervision, maintenance, marketing, acquisition or management, of real estate;

(89) "recognised stock exchange" has the meaning assigned to it in clause *(f)* of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(90) "rent-a-cab scheme operator" means any person engaged in the business of renting of cabs;

(91) "scientific or technical consultancy" means any advice, consultancy, or scientific or technical assistance, rendered in any manner, either directly or indirectly, by a scientist or a technocrat, or any science or technology institution or organisation, to a client, in one or more disciplines of science or technology;

(92) "securities" has the meaning assigned to it in clause *(h)* of section 2 of the Securities Contracts (Regulation) Act, 1956; 42 of 1956.

(93) "security agency" means any commercial concern engaged in the business of rendering services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity, whether of a personal nature or otherwise, including the services of providing security personnel;

(94) "service tax" means tax leviable under the provisions of this Chapter;

(95) "ship" means a sea-going vessel and includes a sailing vessel;

(96) "shipping line" means any person who owns or charters a ship and includes an enterprise which operates or manages the business of shipping;

(97) "sound recording" means recording of sound on a magnetic storage device and includes editing thereof, in any manner;

(98) "sound recording studio or agency" means any commercial concern engaged in the business of rendering any service relating to sound recording;

(99) "steamer agent" means any person who undertakes, either directly or indirectly,—

(i) to perform any service in connection with the ship's husbandry or dispatch including the rendering of administrative work related thereto; or

(ii) to book, advertise or canvass for cargo for or on behalf of a shipping line; or

(iii) to provide container feeder services for or on behalf of a shipping line;

(100) "stock-broker" means a stock-broker who has either made an application for registration or is registered as a stock-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(101) "storage and warehousing" includes storage and warehousing services for goods including liquids and gases but does not include any service provided for storage of agricultural produce or any service provided by a cold storage;

(102) "sub-broker" means a sub-broker who has either made an application for registration or is registered as a sub-broker in accordance with the rules and regulations made under the Securities and Exchange Board of India Act, 1992;

15 of 1992.

(103) "subscriber" means a person to whom any service of a telephone connection or a facsimile (FAX) or a leased circuit or a pager or a telegraph or a telex has been provided by the telegraph authority;

(104) "taxable service" means any service provided,—

(a) to an investor, by a stock-broker in connection with the sale or purchase of securities listed on a recognised stock exchange;

(b) to a subscriber, by the telegraph authority in relation to a telephone connection;

(c) to a subscriber, by the telegraph authority in relation to a pager;

(d) to a policy holder, by an insurer carrying on general insurance business in relation to general insurance business;

(e) to a client, by an advertising agency in relation to advertisement, in any manner;

(f) to a customer, by a courier agency in relation to door-to-door transportation of time-sensitive documents, goods or articles;

(g) to a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering;

(h) to a client, by a custom house agent in relation to the entry or departure of conveyances or the import or export of goods;

(i) to a shipping line, by a steamer agent in relation to a ship's husbandry or dispatch or any administrative work related thereto as well as the booking, advertising or convassing of cargo, including container feeder services;

(j) to a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner;

(k) to a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner;

(l) to a customer, by a air travel agent in relation to the booking of passage for travel by air;

(m) to a client, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer;

(n) to any person, by a tour operator in relation to a tour;

(o) to any person, by a rent-a-cab scheme operator in relation to the renting of a cab;

(p) to a client, by an architect in his professional capacity, in any manner;

(q) to a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner;

(r) to a client, by a management consultant in connection with the management of any organisation, in any manner;

(s) to a client, by a practising chartered accountant in his professional capacity, in any manner;

(t) to a client, by a practising cost accountant in his professional capacity, in any manner;

(u) to a client, by a practising company secretary in his professional capacity, in any manner;

(v) to a client, by a real estate agent in relation to real estate;

(w) to a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fact or activity;

(x) to a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security;

(y) to a client, by a market research agency in relation to market research of any product, service or utility, in any manner;

(z) to a client, by an underwriter in relation to underwriting, in any manner;

(za) to a client, by a scientist or a technocrat, or any science or technology institution or organisation, in relation to scientific or technical consultancy;

(zb) to a customer, by a photography studio or agency in relation to photography, in any manner;

(zc) to a client, by any commercial concern in relation to holding of a convention, in any manner;

(zd) to a subscriber, by the telegraph authority in relation to a leased circuit;

(ze) to a subscriber, by the telegraph authority in relation to a communication through telegraph;

(zf) to a subscriber, by the telegraph authority in relation to a communication through telex;

(zg) to a subscriber, by the telegraph authority in relation to facsimile (FAX) communication;

(zh) to a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic from through computer network, in any manner;

(zi) to a client, by a video production agency in relation to video-tape production, in any manner;

(zj) to a client, by a sound recording studio or agency in relation to any kind of sound recording;

(zk) to a client, by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, having its head office situated in any place outside India, includes service provided by its branch office or subsidiary or representative in India or any agent appointed in India or by any person who acts on its behalf in any manner, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges on behalf of the said agency or organisation.

Explanation.—For the removal of doubts, it is hereby declared that so long as the radio or television programme broadcast is received in India and intended for listening or viewing, as the case may be, by the public, such service shall be a taxable service in relation to broadcasting, even if the encryption of signals or beaming thereof through the satellite might have taken place outside India;

(zl) to a policy holder or insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business;

(zm) to a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services;

(zn) to any person, by a port or any person authorised by the port, in relation to port services, in any manner;

(zo) to a customer, by an authorised service station, in relation to any service or repair of motor cars or two wheeled motor vehicles, in any manner;

(zp) to a customer, by a body corporate other than the body corporate referred to in sub-clause *(zm)*, in relation to banking and other financial services;

(zq) to a customer, by a beauty parlour in relation to beauty treatment;

(zr) to any person, by a cargo handling agency in relation to cargo handling services;

(zs) to customer, by a cable operator in relation to cable services;

(zt) to a customer, by a dry cleaner in relation to dry cleaning;

(zu) to a client, by an event manager in relation to event management;

(zv) to any person, by a fashion designer in relation to fashion designing;

(zw) to any person, by a health club and fitness centre in relation to health and fitness services;

(zx) to a policy holder, by an insurer carrying on life insurance business in relation to life insurance business;

(zy) to a policy holder or insurer by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning life insurance business;

(zz) to a customer, by a rail travel agent in relation to booking of passage for travel by rail;

(zza) to any person, by a storage or warehouse keeper in relation to storage and warehousing of goods;

(zzb) to a client, by a commercial concern in relation to business auxiliary service;

(zzc) to any person, by a commercial training or coaching centre in relation to commercial training or coaching;

(zzd) to a customer, by a commissioning and installation agency in relation to commissioning or installation;

(zze) to a franchisee, by the franchisor in relation to franchise;

(zzf) to any person, by an internet cafe in relation to access of internet;

(zzg) to a customer, by any person in relation to maintenance or repair;

(zzh) to any person, by a technical testing any analysis agency, in relation to technical testing and analysis;

(zzi) to any person, by a technical inspection and certification agency, in relation to technical inspection and certification;

(zzj) to a customer, by an authorised service station, in relation to any service or repair of any maxicab;

(zzk) to a customer, by a foreign exchange broker other than those brokers in relation to banking and other financial services referred to in sub-clauses *(zm)* and *(zp)*;

(zzl) to any person, by other port or any person authorised by that port in relation to port services, in any manner,

and the term "service provider" shall be construed accordingly;

(105) "technical testing and analysis" means any service in relation to physical, chemical, biological or any other scientific testing or analysis of goods or material or any immovable property, but does not include any testing or analysis service provided in relation to human beings or animals;

(106) "technical testing and analysis agency" means any agency or person engaged in providing service in relation to technical testing and analysis;

(107) "technical inspection and certification" means inspection or examination of goods or process or material or any immovable property to certify that such goods or process or material or immovable property qualifies or maintains the specified standards, including functionality or utility or quality or safety or any other characteristic or parameters, but does not include any service in relation to inspection and certification of pollution levels;

(108) "technical inspection and certification agency" means any agency or person engaged in providing service in relation to technical inspection and certification;

13 of 1885. *(109)* "telegraph" has the meaning assigned to it in clause *(1)* of section 3 of Indian Telegraph Act, 1885;

13 of 1885. *(110)* "telegraph authority" has the meaning assigned to it in clause *(6)* of section 3 of the Indian Telegraph Act, 1885 and includes a person who has been granted a licence under the first proviso to sub-section *(1)* of section 4 of that Act;

(111) "telex" means a typed communication by using teleprinters through telex exchanges;

(112) "tour" means a journey from one place to another irrespective of the distance between such places;

59 of 1988. *(113)* "tourist vehicle" has the meaning assigned to it in clause *(43)* of section 2 of the Motor Vehicles Act, 1988;

59 of 1988. *(114)* "tour operator" means any person engaged in the business of operating tours in a tourist vehicle covered by a permit granted under the Motor Vehicles Act, 1988 or the rules made thereunder;

(115) "underwriter" has the meaning assigned to it in clause *(f)* of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

(116) "underwriter" has the meaning assigned to it in clause *(g)* of rule 2 of the Securities and Exchange Board of India (Underwriters) Rules, 1993;

38 of 1963. *(117)* "vessel" has the meaning assigned to it in clause *(z)* of section 2 of the Major Port Trusts Act, 1963;

(118) "video production agency" means any professional videographer or any commercial concern engaged in the business of rendering services relating to video-tap production;

(119) "video-tape production" means the process of any recording of any programme, event of function on a magnetic tape and includes editing thereof, in any manner;

(120) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder, shall apply, so far as may be, in relation to service tax as they apply in relation to a duty of excise. 1 of 1944.

Classification of taxable services.

65A. *(1)* For the purposes of this Chapter, classification of taxable services shall be determined according to the terms of the sub-clauses of clause *(104)* of section 65;

(2) When for any reason, a taxable service is, *prima facie,* classifiable under two or more sub-clauses of clause *(104)* of section 65, classification shall be effected as follows:—

(*a*) the sub-clause which provides the most specific description shall be preferred to sub-clauses providing a more general description;

(*b*) composite services consisting of a combination of different services which cannot be classified in the manner specified in clause (*a*), shall be classified as if they consisted of a service which gives them their essential character, in so far as this criterion is applicable;

(*c*) when a service cannot be classified in the manner specified in clause (*a*) or clause (*b*), it shall be classified under the sub-clause which occurs first among the sub-clauses which equally merit consideration.';

(*b*) for section 66, the following section shall be substituted, namely:—

Charge of service tax.

"66. *(1)* There shall be levied a tax (hereinafter referred to as the service tax) at the rate of eight per cent. of the value of the taxable services referred to in sub-clauses (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*m*), (*n*), (*o*), (*p*), (*q*), (*r*), (*s*), (*t*), (*u*), (*v*), (*w*), (*x*), (*y*), (*z*), (*za*), (*zb*), (*zc*), (*zd*), (*ze*), (*zf*), (*zg*), (*zh*), (*zi*), (*zj*), (*zk*), (*zl*), (*zm*), (*zn*), (*zo*), (*zp*), (*zq*), (*zr*), (*zs*), (*zt*), (*zu*), (*zv*), (*zw*), (*zx*), (*zy*), (*zz*), and (*zza*), of clause (*104*) of section 65 and collected in such manner as may be prescribed.

(2) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be levied a service tax at the rate of eight per cent. of the value of the taxable services referred to in sub-clauses (zzb), (zzc), (zzd), (*zze*), (*zzf*), (*zzg*), (*zzh*), (*zzi*), (*zzj*), (zzk) and (zzl) of clause (104) of section 65 and collected in such manner as may be prescribed.";

(c) in section 67, in the Explanation,—

(*i*) in clause (*f*), for the words "motor car", the words "motor car, maxicab" shall be substituted;

(*ii*) for the portion beginning with the words "but does not include" and ending with the words "rail travel agent in respect of service provided by him", the following shall be substituted, namely:—

"but does not include—

(*i*) initial deposit made by the subscriber at the time of application for telephone connection or pager or facsimile (FAX) or telegraph or telex or for leased circuit;

(*ii*) the cost of unexposed photography film, unrecorded magnetic tape or such other storage devices, if any, sold to the client during the course of providing the service;

(*iii*) the cost of the parts of accessories, or consumable such as lubricants and coolants, if any, sold to the customer during the course of service or repair of motor cars, maxicab or two wheeled motor vehicles;

(*iv*) the airfare collected by air travel agent in respect of service provided by him;

(*v*) the rail fare collected by rail travel agent in respect of service provided by him;

(*vi*) the cost of parts or other material, if any, sold to the customer during the course of providing maintenance or repair service; and

(*vii*) the cost of parts or other material, if any, sold to the customer during the course of providing commissioning or installation service.";

(*d*) in section 73,—

(*i*) in sub-section (*1*), in the *Explanation,* for the words "six months", the words "one year" shall be substituted;

(*ii*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

'(*2A*) Where any service tax has escaped assessment or has been under-assesed or service tax has not been paid or has been short paid or erroneously refunded, the person chargeable with the service tax, may pay the amount of tax on the basis of his own ascertainment of such tax or on the basis of tax ascertained by a Central Excise Officer before service of notice on him under sub-section (*1*) in respect of service tax, and inform the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise of such payment in writing, who, on receipt of such information shall not serve any notice under sub-section (*1*) in respect of service tax so paid:

Provided that the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise may determine the amount of short payment of tax, if any, which in his opinion has not been paid by such person and, then, the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise shall proceed to recover such amount in the manner specified in this section, and the period of "one year" referred to in sub-section (*1*) shall be counted from the date of receipt of such information of payment.

Explanation 1.—Nothing contained in this sub-section shall apply to cases falling under clause (*a*) of sub-section (*1*).

Explanation 2.—For the removal of doubts, it is hereby declared that the interest under section 75 shall be payable on the amount paid by the person under this sub-section and also on the amount of short payment of service tax, if any, as may be determined by the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise, but for this sub-section.

(*2B*) The provisions of sub-section (*2A*) shall not apply to any case where the service tax had become payable or ought to have been paid before the day on which the Finance Bill, 2003 receives the assent of the Presidet.';

(*e*) in section 78, for the proviso, the following shall be substituted, namely:—

"Provided that where such service tax as determined under sub-section (*2*) of section 73, and the interest payable thereon under section 75, is paid within thirty days from the date of communication of order of the Assistant Commissioner of Central Excise or, as the case may be, the Deputy Commissioner of Central Excise determining such service tax, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the service tax so determined:

Provided further that the benefit of reduced penalty under the first proviso shall be available only if the amount of penalty so determined has also been paid within the period of thirty days referred to in that proviso:

Provided also that where the service tax determined to be payable is reduced or increased by the Commissioner (Appeals), the Appellate Tribunal or as the case may be, the court, then, for the purposes of this section, the service tax as reduced or increased, as the case may be, shall be taken into account:

Provided also that in case where the service tax determined to be payable is increased by the Commissioner (Appeals), the Appellate Tribunal or, as the case may be, the court, then, the benefit of reduced penalty under the first proviso shall be available, if the amount of service tax so increased, the interest payable thereon and twenty-five per cent. of the consequential increase of penalty have also been paid within thirty days of communication of the order by which such increase in service tax takes effect.

Explanation.-For the removal of doubts, it is hereby declared that—

(*1*) the provisions of this section shall also apply to cases in which the order determining the service tax under sub-section (*2*) of section 73 relates to notices issued prior to the day on which the Finance Bill, 2003 receives the assent of the President;

(*2*) any amount paid to the credit of the Central Government prior to the date of communication of the order referred to in the first proviso or the fourth proviso shall be adjusted against the total amount due from such person.";

(*f*) in section 83, for the figures and letter "11 D,", the figures and letters "11C, 11D, 12," shall be substituted;

(*g*) in section 85, in sub-section (*1*), for the words "penalty under this Chapter", the words, "penalty or denying any refund of service tax under this Chapter" shall be substituted;

(*h*) in section 94, in sub-section (*2*), after clause (*ee*), the following clause shall be inserted, namely:—

"(*eee*) the credit of service tax paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service.";

(*i*) in section 95, after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) If any difficulty arises in respect of implementing, or assessing the value of, any taxable service incorporated in this Chapter by the Finance Act, 2003, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Chapter, remove the difficutly:

Provided that no such order shall be made after the expiry of a period of two years from the date on which the provisions of the Finance Act, 2003 incorporating such taxable services in this Chapter come into force.";

(*j*) after Chapter V, the following Chapter shall be inserted, namely:—

'CHAPTER VA

ADVANCE RULINGS

Definitions. 96A. In this Chapter, unless the context otherwise requires,—

(*a*) "advance ruling" means the determination, by the Authority of a question of law or fact specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided, by the applicant;

(*b*) "applicant" means—

(*i*) a non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or

(ii) a resident setting up a joint venture in India in collaboration with a non-resident; or

(iii) a wholly owned subsidiary Indian company, of which the holding company is a foreign company,

who proposes to undertake any business activity in India and makes application for advance ruling;

(c) "application" means an application made to the Authority under sub-section *(1) of section 96C;*

(d) "Authority" means the Authority for Advance Rulings constituted under section 28F of the Customs Act, 1962; 52 nf 1962.

(e) "non-resident", "Indian company" and "foreign company" have the meanings respectively assigned to them in clauses *(30)*, *(26)* and *(23A)* of section 2 of the Income-tax Act, 1961; 43 nf 1961.

(f) words and expressions used but not defined in this Chapter and defined in the Central Excise Act, 1944 or the rules made thereunder shall apply, so far as may be, in relation to service tax as they apply in relation to duty of excise. 1 nf 1944.

Vacancies, etc., nnt tn invalidate proceedings.

96B. No proceeding before, or pronouncement of advance ruling by, the Authority under this Chapter shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the Constitution of the Authority.

Application for advance ruling.

96C. *(1)* An applicant desirous of obtaining an advance ruling under this Chapter may make an application in such form and in such manner as may be prescribed, stating the question on which the advance ruling is sought.

(2) The question on which the advance ruling is sought shall be in respect of,—

(a) classification of any service as a taxable service under Chapter V;

(b) the valuation of taxable services for charging service tax;

(c) the principles to be adopted for the purposes of determination of value of the taxable service under the provisions of Chapter V;

(d) applicability of notifications issued under Chapter V;

(e) admissibility of credit of service tax.

(3) The application shall be made in quadruplicate and be accompained by a fee of two thousand five hundred rupees.

(4) An applicant may withdraw an application within thirty days from the date of the application.

Procedure on receipt of applicatinn.

96D. *(1)* On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the Commissioner of Central Excise and, if necessary, call upon him to furnish the relevant records:

Provided that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the Commissioner of Central Excise.

(2) The Authority may, after examining the application and the records called for, by order, either allow or reject the application:

Provided that the Authority shall not allow the application where the question raised in the application is,—

(a) already pending in the applicant's case before any Central Excise Officer, the Appellate Tribunal or any Court;

(*b*) the same as in a matter already decided by the Appellate Tribunal or any Court:

Provided further that no application shall be rejected under this sub-section unless an opportunity has been given to the applicant of being heard:

Provided also that where the application is rejected, reasons for such rejection shall be given in the order.

(*3*) A copy of every order made under sub-section (*2*) shall be sent to the applicant and to the Commissioner of Central Excise.

(*4*) Where an application is allowed under sub-section (*2*), the Authority shall, after examining such further material as may be placed before it by the applicant or obtained by the Authority, pronounce its advance ruling on the question specified in the application.

(*5*) On a request received from the applicant, the Authority shall, before pronouncing its advance ruling, provide an opportunity to the applicant of being heard, either in person or through a duly authorised representative.

Explanation.—For the purposes of this sub-section, "authorised representative" has the meaning assigned to it in sub-section (*2*) of section 35Q of the Central Excise Act, 1944. 1 of 1944.

(*6*) The Authority shall pronounce its advance ruling in writing within ninety days of the receipt of application.

(*7*) A copy of the advance ruling pronounced by the Authority, duly signed by the Members and certified in the prescribed manner shall be sent to the applicant and to the Commissioner of Central Excise, as soon as may be, after such pronouncement.

Applicability of advance ruling.

96E. (*1*) The advance ruling pronounced by the Authority under section 96D shall be binding only—

(*a*) on the applicant who had sought it;

(*b*) in respect of any matter referred to in sub-section (*2*) of section 96C;

(*c*) on the Commissioner of Central Excise, and the Central Excise authorities subordinate to him, in respect of the applicant.

(2) The advance ruling referred to in sub-section (*1*) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the advance ruling has been pronounced.

Advance ruling to be void in certain circumstances.

96F.(*1*) Where the Authority finds, on a representation made to it by the Commissioner of Central Excise or otherwise, that an advance ruling pronounced by it under sub-section (*4*) of section 96D has been obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such ruling to be void *ab initio* and thereupon all the provisions of this Chapter shall apply (after excluding the period beginning with the date of such advance ruling and ending with the date of order under this sub-section) to the applicant as if such advance ruling had never been made.

(2) a copy of the order made under sub-section (*1*) shall be sent to the applicant and the Commissioner of Central Excise.

Powers of Authority.

96G.(*1*) The Authority shall, for the purpose of exercising its powers regarding discovery and inspection, enforcing the attendance of any person and examining him on oath, issuing commissions and compelling production of books of account and other records, have all the powers of a civil court under the Code of Civil Procedure, 1908. 5 of 1908.

(*2*) The authority shall be deemed to be a civil court for the purposes of section 195, but not for the purposes of Chapter XXVI of the Code of Criminal Procedure, 1973, and every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purpose of section 196 of the Indian Penal Code. 2 of 1974. 45 of 1860.

Procedure of Authority.

96H. The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers under this Act.

Power of Central Government to make rules.

96-I. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the form and manner for making application under sub-section (*1*) of section 96C;

(*b*) the manner of certifying a copy of advanced ruling pronounced by the Authority under sub-section (*7*) of section 96D;

(*c*) any other matter which, by this Chapter, is to be or may be prescribed.

(*3*) Every rule made under this Chapter shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulement shall be without prejudice to the validity of anything previously done under that rule.'.

Amendment of nntification issued under section 93 of Act 32 of 1994.

152. *(1)* Notwithstanding the decision of the notification of the Government of India in the erstwhile Ministry of Finance (Department of Revenue) No.G.S.R.639(E), dated the 5th November, 1997, issued under section 93 of the Finance Act, 1994, by the Central Government, that notification shall stand amended and shall be deemed to have been amended in the manner specified in the Twelfth Schedule, on and from the 16th day of November, 1997 to the 1st day of June, 1998 (both days inclusive) retrospectively and, accordingly, notwithstanding anything contained in any judgement, decree or order of any court, tribunal or other authortity, any action taken or anything done or purported to have been taken or done under the said notification, shall be deemed to be, and always to have been, for all purposes, as validly and effectivley, taken or done as if the notification as amended by this sub-section had been in force at all material times.

(2) Refund shall be made of all such service tax which, has been collected but which would not have been so collected if the amendment referred to in sub-section *(1)* had been in force at all material times.

32 of 1994.

(3) Notwithstanding anything contained in section 83 of the Finance Act, 1994, an application for claim of refund of the service tax under sub-section (*2*) shall be made within one year from the day on which the Finance Bill, 2003 receives the assent of the President.

(4) For the purposes of sub-section *(1)*, the Central Government shall have and shall be deemed to have the power to amend the notification referred to in the said sub-section with retrospective effect as if the Central Government had the power to amend the said notification under section 93 of the Finance Act, 1994 retrospectively at all material times.

32 of 1994.

CHAPTER VI

CENTRAL SALES TAX

74 of 1956.

Amendment of section 6.

153. In the Central Sales Tax Act, 1956 (hereinafter referred to as the Central Sales Tax Act), in section 6, after sub-section *(2)*, the following sub-section shall be inserted, namely:—

"*(3)* Notwithstanding anything contained in this Act, if—

(a) any official or personnel of—

(*i*) any foreign diplomatic mission or consulate in India; or

(*ii*) the United Nations or any other similar international body,

entitled to privileges under any convention to which India is a party or under any law for the time being in force; or

(*b*) any consular or diplomatic agent of any mission, the United Nations or other body referred to in sub-clause (*i*) or sub-clause (*ii*) of clause (*a*),

purchases any goods for himself or for the purposes of such mission, United Nations or other body, then, the Central Government may, by notification in the Official Gazette, exempt, subject to such conditions as may be specified in the notification, the tax payable on the sale of such goods under this Act.".

Amendment of section 8.

154. In section 8 of the Central Sales Tax Act, in sub-section (*1*), for the portion beginning with the words "shall be liable" and ending with the words "whichever is lower", the following shall be substituted, namely:—

"shall be liable to pay tax under this Act, with effect from such date as may be notified by the Central Government in the Official Gazette for this purpose, which shall be two per cent. of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, or, as the case may be, under any enactment of that State imposing value added tax, whichever is lower:

Provided that the rate of tax payable under this sub-section by a dealer shall continue to be four per cent. of his turnover, untill the rate of two per cent. takes effect under this sub-section.".

Amendment of section 20.

155. In section 20 of the Central Sales Tax Act,—

(*a*) in sub-section (*1*), for the words and figure "section 9 of this Act", the words and figure "section 9 of this Act, which relates to any dispute concerning the sale of goods effected in the course of inter-state trade or commerce" shall be substituted;

(*b*) in sub-section (*2*), for the portion beginning with the worlds "aggrieved against" and ending with the words and figure "section 9 of this Act", the following shall be substituted, namely:—

"under sub-section (*1*) within forty-five days from the date on which order referred to in that sub-section is served on him:

Provided that the Authority may entertain any appeal after the expiry of the said period of forty-five days, but not later than sixty days from the date of such service, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.";

(*c*) sub-section (*3*) shall be omitted.

Amendment of section 21.

156. In section 21 of the Central Sales Tax Act,—

(*a*) in sub-section (*1*), for the portion beginning with the words "assessing authority concerned" and ending with the words "returned to the assessing authority", the following shall be substituted, namely:—

"assessing authority concerned as well as to each State Government concerned with the appeal and to call upon them to furnish the relevant records:

Provided that such records shall, as soon as possible, be returned to the assessing authority or such State Government concerned, as the case may be.";

(*b*) in sub-section (*3*), for the first proviso, the following proviso shall be substituted, namely:—

"Provided that no appeal shall be rejected unless an opportunity has been given to the appellant of being heard in person or through a duly authorised representative, and also to the State Government concerned with the appeal of being heard."

Amendment of section 23.

157. In section 23 of the Central Sales Tax Act, for the words "in all matters", the words "in all matters, including stay of recovery of any demand" shall be substituted.

CHAPTER VII

MISCELLENEOUS

Inseertion of new secions 46B and 46C in Act 13 of 1988.

158. After section 46A of the Finance Act, 1989, the following sections shall be inserted, namely:—

Penalty for failure to pay inland air travel tax to credit of Central Government.

'46B. If any carrier fails to pay to the credit of the Central Government, the inland air travel tax collected by him as required under the provisions of sections 42, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to seven years and with fine.

Offences by companeis.

46C. *(1)* Where any offence under section 46B has been committed by a company, every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in the said section, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section *(1)*, where an offence under section 46B has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firms.'.

Amendment of second Schedule to Act 21 of 1998

159. In the Finance (No. 2) Act, 1988, in the Second Schedule, for the entry in column (3), the entry "One rupee and fifty paise per litre" shall be substituted.

Amendment of Second Schedule to Act 27 of 1999.

160. In the Finance Act, 1999, in the Second Schedule, for the entry in column (3), the entry "One rupee and fifty paise per litre" shall be substituted.

Amendment of Seventh Schedule to Act 14 of 2001.

161. In the Finance Act 2001, the Seventh Schedule shall be amended in the manner specified in the Thirteenth Schedule and the amendment so made shall cease to have effect on the 1st day of March, 2004, except as respects things done or omitted to be done before such cesser of operation, and section 6 of the General Clauses Act, 1897 shall apply upon such cesser of operation as if the amendment so made had then been repeated by a Central Act.

10 of 1897.

Declaration under the Provisional Collection of Taxes Act, 1931

It is hereby declared that it is expedient in the public interest that the provisions of 121, 126, 127 (b), 140, 147, 149, 159, 160 and 161 of this Bill shall have immediate effect under the Provisional Collection of Taxes Act, 1931. 16 of 1931.

THE FIRST SCHEDULE

(See section 2)

PART I

INCOME-TAX

Paragraph A

In the case of every individual or Hindu Undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1) where the total income does not exceed Rs. 50,000	*Nil*
(2) where the total income exceeds Rs. 50,000 but does not exceed Rs. 60,000	10 per cent of the amount by which the total income exceeds Rs. 50,000;
(3) where the total income exceeds Rs. 60,000 but does not exceed Rs. 1,50,000	Rs. 1000 plus 20 per cent of the amount by which the total income exceeds Rs. 60,000;
(4) where the total income exceeds Rs. 1,50,000	Rs. 19,000 plus 30 per cent of the amount by which the total income exceeds Rs. 1,50,000;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, or section 113, shall,—

(i) in the case every individual or Hindu undivided family, or association of persons or body of individuals having a total income exceeding sixty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIII-A, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax;

(ii) in the case of every person other than those mentioned in item (i), be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax:

Provided that in case of persons mentioned in item(i) above having a total income exceeding sixty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on a total income of sixty thousand rupees by more than the amount of income that exceeds sixty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs. 10,000	10 per cent. of the total income;

(2) where the total income exceeds Rs. 10,000 but does not exceed Rs. 20,000	Rs. 1,000 plus 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 plus 30 per cent of the amount by which the total income exceeds Rs. 20,000;

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, or section 113, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent. of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112 or section 113, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent, of such income-tax.

Paragraph E

In the case of a company,—

Rates of income-tax

I. In the case of a domestic company 35 per cent. of the total income;

II. In the case of a company other than a domestic company—

(i) on so much of the total income as consists of,—

(a) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976, or

(b) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976.

and where such agreement has, in either case, been approved by the Central Government	50 per cent.;
(ii) on the balance, if any, of the total income	40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112 or section 113, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of five per cent, of such income-tax.

PART II

Rates for deduction of tax at source in certain cases

In every case in which under the provisions of sections 193, 194, 194A, 194B, 194BB, 194D and 195 of the Income-tax Act, tax is to be deducted at the rates in force, deduction shall be made from the income subject to the deduction at the following rates:—

	Rates of income-tax
1. In the case of a person other than a company—	
(a) where the person is resident in India—	
(i) on income by way of interest other than "Interest on securities"	10 per cent.;
(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort	30 per cent.;
(iii) on income by way of winnings from horse races	30 per cent.;
(iv) on income by way of insurance commission	10 per cent.;
(v) on income by way of interest payable on—	10 per cent.;
(A) any debentures or securities other than a security of the Central or State Government for money issued by or on behalf of any local authority or a corporation established by a Central, State or Provincial Act;	
(B) any debentures issued by a company where such debentures are listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and any rules made thereunder	
(vi) on any other income	20 per cent.;
(b) where the person is not resident in India—	
(i) in the case of a non-resident Indian—	
(A) on any investment income	20 per cent.;
(B) on income by way of long-term capital gains referred to in section 115E	10 per cent.;
(C) on other income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10]	20 per cent.;
(D) on income by way of interest payable by Government or an Indian concern on rnoneys borrowed or debt incurred by Government or the Indian concern in foreign currency	20 per cent.;

(*E*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(*F*) on income by way of winnings from horse races — 30 per cent.;

(*G*) on the whole of the other income — 30 per cent.;

(ii) in the case of any other person—

(*A*) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency — 20 per cent.;

(*B*) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(*C*) on income by way of winnings from horse races — 30 per cent.;

(*D*) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10] — 20 per cent.;

(*E*) on the whole of the other income — 30 per cent.;

2. In the case of a company—

(a) where the company is a domestic company—

(i) on income by way of interest other than "Interest on securities" — 20 per cent.;

(ii) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(iii) on income by way of winnings from horse races — 30 per cent.;

(iv) on any other income — 20 per cent.;

(b) where the company is not a domestic company—

(i) on income by way of winnings from lotteries, crossword puzzles, card games and other games of any sort — 30 per cent.;

(ii) on income by way of winnings from horse races — 30 per cent.;

(iii) on income by way of interest payable by Government or an Indian concern on moneys borrowed or debt incurred by Government or the Indian concern in foreign currency — 20 per cent.;

(iv) on income by way of royalty payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1976, where such royalty is in consideration for the transfer of all or any rights (including the granting of a consideration) for the transfer of all or any rights (including the granting of a licence) in respect of copyright in any book on a subject referred to in the first proviso to sub-section (1A) of section 115A of the Income-tax Act, to the Indian concern, or in respect of any computer software referred to in the second proviso to sub-section (1A) of section 115A of the Income-tax Act, to a person resident in India—

(A) where the agreement is made before the 1st day of June, 1997 — 30 per cent.;

(B) where the agreement is made on or after the 1st day of June, 1997 — 20 per cent.;

(v) on income by way of royalty [not being royalty of the nature referred to in sub-item (*b*)(*iv*)] payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 31st day of March, 1961 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;

(vi) on income by way of fees for technical services payable by Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern and where such agreement is with an Indian concern, the agreement is approved by the Central Gvoernment or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy—

(A) where the agreement is made after the 29th day of February, 1964 but before the 1st day of April, 1976	50 per cent.;
(B) where the agreement is made after the 31st day of March, 1976 but before the 1st day of June, 1997	30 per cent.;
(C) where the agreement is made on or after the 1st day of June, 1997	20 per cent.;
(vii) on income by way of long-term capital gains [not being long-term capital gains referred to in clauses (33) and (36) of section 10]	20 per cent.;
(viii) on any other income	40 per cent.

Explanation.—For the purpose of item *1(b)(i)* of this Part, "investment income" and "non-resident Indian" shall have the meanings assigned to them in Chapter XII-A of the Income-tax Act.

Surcharge on income-tax

The amount of income-tax deducted in accordance with the provisions of—

(*A*) item (*1*) of this Part, shall be increased by a surcharge, for purposes of the Union, calculated,—

(*i*) in the case of every individual, Hindu undivided family, association of person and body of individuals, whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subject to the deduction exceeds eight hundred and fifty thousand rupees;

(*ii*) in the case of every co-operative society, firm and local authority, at the rate of two and one-half per cent. of such tax;

(*iii*) in the case of every artificial juridical person referred to in sub-clause (*vii*) of clause(*31*) of section 2 of the Income-tax Act, at the rate of ten per cent. of such tax.

(*B*) item 2 of this Part, shall be increased by a surcharge, for purposes of the Union, calculated at the rate of two and one-half per cent. of such income-tax.

PART III

Rates for charging income-tax in certain cases, deducting income-tax from income chargeable under the head "Salaries" and computing "Advance tax"

In cases in which income-tax has to be charged under sub-section (*4*) of section 172 of the Income-tax Act or sub-section (*2*) of section 174 or section 174A or section 175 or sub-section (*2*) of section 176 of the said Act or deducted from, or paid on, from income chargeable under the head "Salaries" under section 192 of the said Act or in which the "advance tax" payable under Chapter-XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, "advance tax" [not being "advance tax" in respect of any income chargeable to tax under Chapter XII or Chapter XII-A or section 115JB or sub-section (*1A*) of section 161 or section164 or section 164A or section 167B of the Income-tax Act at the rates as specified in that Chapter or section or surcharge on such"advance tax" in respect of any income chargeable to tax under section 115A or section 115AB or section 115AC or section 115ACA or section 115AD or section 115B or section 115BB or section 115BBA or section 115E or section 115JB] shall be charged, deducted or computed at the following rate or rates:—

Paragraph A

In the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (*vii*) of clause (*31*) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of this Part applies,—

Rates of income-tax

(1)	where the total income does not exceed Rs.50,000	Nil,
(2)	where the total income exceeds Rs.50,000 but does not not exceed Rs.60,000	10 per cent of the amount by which the total income exceeds Rs.50,000;
(3)	where the total income exceeds Rs.60,000 but does not exceed Rs.1,50,000	Rs.1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs.60,000;
(4)	where the total income exceeds Rs.1,50,000	Rs. 19,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs.1,50,000.

Surcharge on inocme-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph or in section 112 shall,—

(*i*) in the case of every individual or Hindu undivided family or association of persons or body of individuals having a total income exceeding eight hundred and fifty thousand rupees, be reduced by the amount of rebate of income-tax calculated under Chapter VIIIA, and the income-tax as so reduced, be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax.

(*ii*) in the case of every person, other than those mentioned in item (*i*) be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent. of such income-tax:

Provided that in case of persons mentioned in item (*i*) above having a total income exceeding eight hundred and fifty thousand rupees, the total amount payable as income-tax and surcharge on such income shall not exceed the total amount payable as income-tax on

a total income of eight hundred and fifty thousand rupees by more than the amount of income that exceeds eight hundred and fifty thousand rupees.

Paragraph B

In the case of every co-operative society,—

Rates of income-tax

(1) where the total income does not exceed Rs.10,000	10 per cent. of the total income;
(2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000	Rs.1,000 *plus* 20 per cent. of the amount by which the total income exceeds Rs. 10,000;
(3) where the total income exceeds Rs.20,000	Rs.3,000 *plus* 30 per cent. of the amount by which the total income exceeds Rs.20,000.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every co-operative society, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph C

In the case of every firm,—

Rate of income-tax

On the whole of the total income 35 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every firm, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such income-tax.

Paragraph D

In the case of every local authority,—

Rate of income-tax

On the whole of the total income 30 per cent.

Surcharge on income-tax

The amount of income-tax computed at the rate hereinbefore specified, or in section 112, shall, in the case of every local authority, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

Paragraph E

In the case of a company,—

Rate of income-tax

I. In the case of a domestic company 35 per cent. of the total income;

II. In the case of a company other than a domestic company—

(*i*) on so much of the total income as consists of,—

(*a*) royalties received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 31st day of March, 1961 but before the 1st day of April, 1976; or

(*b*) fees for rendering technical services received from Government or an Indian concern in pursuance of an agreement made by it with the Government or the Indian concern after the 29th day of February, 1964 but before the 1st day of April, 1976,

and where such agreement has, in either case, been approved by the Central Government — 50 per cent;

(*ii*) on the balance, if any, of the total income — 40 per cent.

Surcharge on income-tax

The amount of income-tax computed in accordance with the preceding provisions of this Paragraph, or in section 112, shall, in the case of every company, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income-tax.

PART IV

[*See* section *2(11)(c)*]

RULES FOR COMPUTATION OF NET AGRICULTURAL INCOME

Rule 1.—Agricultural income of the nature referred to in sub-clause (*a*) of clause (*1A*) of section 2 of the Income-tax Act shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from other sources" and the provisions of sections 57 to 59 of that Act shall, so far as may be, apply accordingly:

Provided that sub-section (*2*) of section 58 shall apply subject to the modification that the reference to section 40A therein shall be construed as not including a reference to sub-sections (*3*) and (*4*) of section 40A.

Rule 2.—Agricultural income of the nature referred to in suh-clause (*b*) or sub-clause (*c*) of clause (*1A*) of section 2 of the Income-tax Act [other than income derived from any building required as a dwelling-house by the receiver of the rent or revenue of the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*)] shall be computed as if it were income chargeable to income-tax under that Act under the head "Profits and gains of business or profession" and the provisions of sections 30, 31, 32, 36, 37, 38, 40, 40A [other than sub-sections (*3*) and (*4*) thereof], 41, 43, 43A, 43B and 43C of the Income-tax Act shall, so far as may be, apply accordingly.

Rule 3.—Agricultural income of the nature referred to in suh-clause (*c*) of clause *(1A)* of section 2 of the Income-tax Act, being income derived from any building rquired as a dwelling-house by the receiver of the rent or revenue or the cultivator or the receiver of rent-in-kind referred to in the said sub-clause (*c*) shall be computed as if it were income chargeable to income-tax under that Act under the head "Income from house property" and the provisions of sections 23 to 27 of that Act shall, so far as may be, apply accordingly.

Rule 4.—Notwithstanding anything contained in any other provisions of these rules, in a case—

(*a*) where the assessee derives income from sale of tea grown and manufactured by him in India, such income shall be computed in accordance with rule 8 of the Income-tax Rules, 1962, and sixty per cent. of the such income shall be regarded as the agricultural income of the assessee;

(*b*) where the assessee derives income from sale of centrifuged latex or cenex or latex based crepes (such as pale latex crepe) or brown crepes (such as estate brown crepe, re-milled crepe, smoked blanket crepe of flat bark crepe) of technically specified block rubbers manufactured or processed by him from rubber plants grown by him in India, such income shall be computed in accordance with rule 7A of the Income-tax Rules, 1962, and sixty-five per cent. of such income shall be regarded as the agricultural income of the assessee;

(*c*) where the assessee derives income from sale of coffee grown and manufactured by him in India, such income shall be computed in accordance with rule 7B of the Income-tax Rules, 1962, and sixty per cent. or seventy-five per cent. as the case may be, of such income shall be regarded as the agricultural income of the assessee.

Rule 5.—Where the assessee is a member of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) which in the previous year has either no income chargeable to tax under the Income-tax Act or has total income not exceeding the maximum amount not chargeable to tax in the case of an association of persons or a body of individuals (other than a Hindu undivided family, a company or a firm) but has any agricultural income then, the agricultural income or loss of the association or body shall be computed in accordance with these rules and the share of the assessee in the agricultural income or loss so computed shall be regarded as the agricultural income or loss of the assessee.

Rule 6.—Where the result of the computation for the previous year in respect of any source of agricultural income is a loss, such loss shall be set off against the income of the assessee, if any, for that previous year from any other source of agricultural income:

Provided that were the assessee is a member of an association of persons or a body of individuals and the share of the assessee in the agricultural income of the association or body, as the case may be, is a loss, such loss shall not be set off against any income of the assessee from any other source of agricultural income.

Rule 7.—Any sum payable by the assessee on account of any tax levied by the State Government on the agricultural income shall be deducated in computing the agricultural income.

Rule 8.—(*1*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2003, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assesment years commencing on the 1st day of April, 1995 or the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002, is a loss, then, for the purposes of sub-section (*2*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1995, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002.

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002.

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, or the 1st day of April, 2002,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2003.

(*2*) Where the assessee has, in the previous year relevant to the assessment year commencing on the 1st day of April, 2004, or, if by virtue of any provision of the Income-tax Act, income-tax is to be charged in respect of the income of a period other than the previous year, in such other period, any agricultural income and the net result of the computation of the agricultural income of the assessee for any one or more of the previous years relevant to the assessment years commencing on the 1st day of April, 1996 or the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of of April, 2003, is a loss, then, for the purposes of sub-section (*9*) of section 2 of this Act,—

(*i*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1996, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1997 or the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*ii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1997, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1998 or the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*iii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1998, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 1999 or the 1st day of April, 2000 or the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*iv*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 1999, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, or the 1st day of April, 2001, or the 1st day of April, 2002 or the 1st day of April, 2003,

(*v*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2000, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment

year commencing on the 1st day of April, 2001 or the 1st day of April, 2002 or the 1st day of April, 2003,

(*vi*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2001, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2002 or the 1st day of April, 2003,

(*vii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2002, to the extent, if any, such loss has not been set off against the agricultural income for the previous year relevant to the assessment year commencing on the 1st day of April, 2003,

(*viii*) the loss so computed for the previous year relevant to the assessment year commencing on the 1st day of April, 2003, shall be set off against the agricultural income of the assessee for the previous year relevant to the assessment year commencing on the 1st day of April, 2004.

(*3*) Where any person deriving any agricultural income from any source has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in sub-rule (*1*) or sub-rule (*2*) shall entitle any person, other than the person incurring the loss, to have it set off under sub-rule(*1*) or, as the case may be, sub-rule (*2*).

(*4*) Notwithstanding anything contained in this rule, no loss which has not been determined by the Assessing Officer under the provisions of these rules or the rules contained in Part IV of the First Schedule to the Finance Act, 1995 (22 of 1995), or of the First Schedule to the Finance (No. 2) Act, 1996 (33 of 1996), or of the First Schedule to the Finance Act, 1997 (26 of 1997), or of the First Schedule to the Finance (No. 2) Act, 1998 (21 of 1998), or of the First Schedule to the Finance Act, 1999 (27 of 1999), or of the First Schedule to the Finance Act, 2000 (10 of 2000), or of the First Schedule to the Finance Act, 2001 (14 of 2001), or of the First Schedule to the Finance Act, 2002 (20 of 2002), shall be set off under sub-rule (*1*) or, as the case may be, sub-rule (*2*).

Rule 9.—Where the net result of the computation made in accordance with these rules is a loss, the loss so computed shall be ignored and the net agricultural income shall be deemed to be *nil*.

Rule 10.—The provisions of the Income-tax Act relating to procedure for assessment (including the provisions of section 288A relating to rounding off of income) shall, with the necessary modifications, apply in relation to the computation of the net agricultural income of the assessee as they apply in relation to the assessment of the total income.

Rule 11.—For the purposes of computing the net agricultural income of the assessee, the Assessing Officer shall have the same powers as he has under the Income-tax Act for the purposes of assessment of the total income.

THE SECOND SCHEDULE

[*See* section 119 (1)]

S. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 465 (E), dated the 3rd May, 1990 (169/ 1990-Customs, dated the 3rd May, 1990)	In the said notification, after condition (*iii*) and before the *Explanation* the following condition shall be inserted, namely:— "(*iv*) where the Licensing Authority grants an extension of the period for fulfilment of export obligation in terms of, and subject to the satisfaction of such condition as may be specified in a Public Notice of the Government of India in the Ministry of Commerce and Industry in this regard and the licence-holder units are affected hy the earthquake which took place in the State of Gujarat in the month of January, 2001, then, the said period of fulfilment of export obligation may, notwithstanding anything contained in condition (*iii*), be extended and be deemed to have been extended beyond the 31st day of March, 2002, but shall in no case be extended beyond the 31st day of March, 2004.".	3rd May, 1990.
2.	G.S.R. 423 (E), dated the 20th April, 1992 (160/ 1992-Customs, dated the 20th April, 1992)	In the said notification, after condition (*iv*), the following condition shall be inserted, namely:— "(*v*) where the Licensing Authority, in respect of a licence-holder unit affected by the earthquake which took place in the State of Gujarat in the month of January, 2001, grants extension of the period for fulfilment of export obligation, in terms of, and subject to the satisfaction of such condition as may be specified in a Public Notice of the Government of India in the Ministry of Commerce and Industry in this regard, the said period of fulfilment of export obligation may be extended and be deemed to have been extended beyond the 31st day of March, 2002, hut shall in no case be extended beyond the 31st day of March, 2004.".	20th April, 1992.

THE THIRD SCHEDULE

[*See* section 120(1)]

S. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 308 (E), date the 31st March, 1995 (79/95-Customs, dated the 31st March, 1995)	In the said notification, in condition (*iii*), in sub-condition (*b*), for the entry "24%", as it stood on the 19th September, 1995, the entry "15%" shall be substituted.	19th September, 1995
2.	G.S.R. 309 (E), dated the 31st March, 1995 (80/95-Customs, dated the 31st March, 1995)	In the said notification, in condition (*ii*), in sub-condition (*b*), for the entry "24%", as it stood on the 19th September, 1995, the entry "15%" shall be substituted.	19th September, 1995.
3.	G.S.R. 480 (E), dated the 5th June, 1995 (110/95-Customs, dated the 5th June, 1995)	In the said notification,— (*i*) in each of the conditions (4) and (5), for the entry "24%", as it stood on the 19th September, 1995, the entry "15%" shall be substituted;	19th September, 1995.
		(*ii*) in condition (7), after the proviso, the following proviso shall be inserted, namely:—	30th april, 2000.
		"Provided further that where the Licensing Authority grants further extension of the period for fulfilment of export obligation beyond the period as specified in this condition, then, subject to the satisfaction of such conditions as may be specified in a Public Notice of the Government of India in the Ministry of Commerce and Industry in this regard, such export obligation may be extended, but shall in no case be extended beyond the 31st day of March, 2004".	
4.	G.S.R. 657 (E), dated the 19th September, 1995 (148/95-Customs, dated the 19th September, 1995)	In the said notification, in condition (*ii*), for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	19th September, 1995.
5.	G.S.R. 658 (E), date the 19th September, 1995 (149/95-Customs, dated the 19th September, 1995)	In the said notification, in condition (*ii*), for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	19th September, 1995.
6.	G.S.R. 184 (E), dated the 1st April, 1997 (28/97-	In the said notification, in each of the conditions (3) and (4), for the entry "24%", the entry "15%", shall be substituted.	1st April, 1997.

	Customs, dated the 1st April, 1997)		
7.	G.S.R. 186 (E), dated the 1st April, 1997 (30/97-Customs, dated the 1st April, 1997)	In the said notification, in condition (*ii*), for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	1st April, 1997.
8.	G.S.R. 187 (E), dated the 1st April, 1997 (31/97-Customs, dated the 1st April, 1997)	In the said notification, in condition (*ii*), for the entry "24%", the entry "15%" shall be substituted.	1st April, 1997.
9.	G.S.R. 197 (E), dated the 7th April, 1997 (34/97-Customs, dated the 1st April, 1997)	In the said notification, in condition (*v*), for the entry "24%", the entry "15%" shall be substituted.	7th April, 1997.
10.	G.S.R. 216 (E), dated the 11th April, 1997 (36/97-Customs, dated the 11th April, 1997)	In the said notification, in condition (3) for the entry "24%, the entry "15% shall be substituted.	11th April, 1997
11.	G.S.R. 623 (E), dated the 16th October, 1998 (77/98-Customs, dated the 16th October, 1998)	In the said notification, in condition (*iv*), for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	16th October, 1998.
12.	G.S.R. 299 (E) dated the 29th April, 1999 (48/99-Customs, dated the 29th April, 1999)	In the said notification, in condition (*ii*), for the words "twenty-four per cent.", the words "fifteen per cent". shall be substituted.	29th April, 1999.
13.	G.S.R. 366 (E) dated the 27th April, 2000 (50/2000-Customs, dated the 27th April, 2000)	In the said notification, in condition (3), for the entry "24%", the entry "15%" shall be substituted.	27the April, 2000.
14.	G.S.R. 367 (E) dated the 27th April, 2000 (51/2000-Customs, dated the 27th April, 2000)	In the said notification, in condition (*ii*), for the words "twenty-four per cent.", the words "fifteen per cent." shall be substituted.	27th April, 2000.

THE FOURTH SCHEDULE

[*See* sections 121(1) and 149 (1)]

Item No.	Description of goods	Rate of duty
(1)	(2)	(3)
1	Tea and tea waste	Rupee one per kg. 5

THE FIFTH SCHEDULE

(See section 140*)*

THE THIRD SCHEDULE

[*See* section 2(f)(iii)]

1. In this Schedule, "heading" and "sub-heading" mean respectively a heading and sub-heading in the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).

2. The rules for the interpretation of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall apply to the interpretation of this Schedule.

S. No.	Heading No. or sub-heading No.	Description of goods
(1)	(2)	(3)
1.	0401.14	Concentrated (condensed) milk, whether sweetened or not, put up in unit containers and ordinarily intended for sale
2.	1702.21 or 1702.29	Preparations of other sugars
3.	1702.30	Sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel.
4.	1704.10	Gums, whether or not sugar coated (including chewing gum, bubblegum and the like)
5.	1704.90	All goods
6.	18.02	Cocoa powder, whether or not containing added sugar or other sweetening matter
7.	18.03	Chocolates in any form, whether or not containing nuts, fruit kernels or fruits, including drinking chocolates
8.	18.04	Other food preparations containing cocoa
9.	1901.19 or 1901.92	All goods
10.	1902.19	All goods
11.	1904.10	All goods
12.	1905.11	Biscuits, in or in relation to the manufacture of which any process is ordinarily carried on with the aid of power
13.	1905.31	Waffles and wafers, coated with chocolate or containing chocolate
14.	1905.39	All goods
15.	2101.10	Extracts, essences and concentrates, of coffee, and preparations with a basis of these extracts, essences or concentrates or with a basis of coffee
16.	2102.10	All goods
17.	21.05	Ice cream and other edible ice, whether or not containing cocoa
18.	21.06	Pan masala, only in retail packs containing ten grams or more per pack,other than the goods containing not more than 15% betel nut by weight and not containing tobacco in any proportion
19.	21.07	Betel nut powder known as "Supari"

(1)	(2)	(3)
20.	2108.20	Sharbat
21.	2108.99	All goods
22.	2201.19	All goods
23.	2201.20	Aerated waters
24.	2202.19	All goods
25.	2202.20	Aerated waters
26.	22.03	Vinegar and substitutes for vinegar obtained from acetic acid
27.	2404.41	Chewing tobacco and preparations containing chewing tobacco
28.	2404.49	Pan masala containing tobacco
29.	2502.21	White cement, whether or not artificially coloured and whether or not with rapid hardening properties
30.	2710.90	Lubricating oils and Lubricating preparations
31.	3204.30	Synthetic organic products of a kind used as fluorescent brightening agents or as a luminophores
32.	3206.90	All goods
33.	32.08, 32.09 or 32.10	All goods
34.	3212.90	Dyes and other colouring matter put up in forms or small packing of a kind used for domestic or laboratory purposes
35.	32.13 or 32.14	All goods
36.	33.03, 33.04 or 33.05	All goods
37.	3306.10	Tooth paste
38.	33.07	All goods
39.	3401.19	All goods
40.	3401.20 or 3402.90	All goods
41.	3403.10	Lubricating preparations
42.	34.05	Polishes and creams, for footwear, furniture, floors, coachwork, glass or metal; scouring pastes and powders and similar preparations (whether or not in the form of paper, wadding, felt, non-wovens, cellular plastics or cellular rubber, impregnated, coated or covered with such preparations), excluding waxes of heading No. 34.04
43.	35.06	Prepared glues and other prepared adhesives, not elsewhere specified or included
44.	3702.90	All goods
45.	3808.10	All goods
46.	3808.90	Disinfectants and similar products
47.	38.14	Thinners
48.	38.19	Hydraulic brake fluids and other prepared liquids for hydraulic transmission, not containing or containing less than 70% by weight of petroleum oils or oils obtained from bituminous minerals

(1)	(2)	(3)
49.	38.20	Anti-freezing preparations and prepared de-icing fluids
50.	3824.90	Stencil correctors and other correcting fluids, ink removers put up in packings for retail sale
51.	39.19	Self-adhesive tapes of plastics
52.	3923.10 or 3924.10	Insulated ware
53.	48.16	Carbon paper, self-copy paper, duplicator stencils, of paper
54.	4818.90	Cleansing or facial tissues, handkerchiefs and towels, of paper pulp, paper, cellulose wadding or webs of cellulose fibres
55.	64.01	Footwear
56.	6501.10	Safety headgear
57.	6905.10	Vitrified tiles, whether polished or not
58.	6906.10	Glazed tiles
59.	7321.10	Cooking appliances and plate warmers
60.	7323.10	Pressure cookers
61.	73.24	Sanitary ware of iron or steel
62.	7418.90	Sanitary ware of copper
63.	7615.20	Pressure cookers
64.	82.12	Razors and razor blades (including razor blade blanks in strips)
65.	83.05	Staples in strips, paper clips of base metal
66.	8414.40	Electric fans
67.	84.15	Window room air-conditioners and split air-conditioners of capacity up to 3 tonnes
68.	8418.10	Refrigerators
69.	8421.10	Water filters and water purifiers, of a kind used for domestic purposes
70.	8422.10	Dish washing machines
71.	8450.10	Household or laundry type washing machines, including machines which both wash and dry
72.	8469.90	Typewriters
73.	84.70	Calculating machines and pocket-size data recording, reproducing and displaying machines with calculating functions
74.	84.72	Stapling machines
75.	85.06	Primary cells and primary batteries
76.	85.09	Electro-mechanical domestic appliances with self-contained electric motor
77.	85.10	Shavers, hair clippers and hair-removing appliances, with self-contained electric motor
78.	85.13	Portable electric lamps designed to function by their own source of energy (for example, dry batteries, accumulators, magnetos), other than lighting equipment of heading No. 85.12

(1)	(2)	(3)
79.	85.16	Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hairdressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes
80.	85.17	Telephone sets including telephones with cordless handsets; video phones; facsimile machines
81.	85.19 or 85.20	All goods
82.	85.21	All goods
83.	8523.12	Unrecorded audio cassettes
84.	8523.14	Video cassettes
85.	8523.20	Magnetic discs
86.	8524.34	Video cassettes
87.	8524.40	Magnetic discs
88.	85.25	Pagers, cellular or mobile phones
89.	8527.10	Radio sets including transistor sets, having the facility of receiving radio signals and converting the same into audio output with no other additional facility like sound recording or reproducing or clock in the same housing or attached to it
90.	8527.90	Reception apparatus for radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock
91.	85.28	Television receivers (including video monitors and video projectors), other than monochrome, whether or not incorporating radio broadcast rceivers or sound or video recording or reproducing apparatus
92.	85.36	All goods
93.	85.39	Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; Arc lamps
94.	90.06	Photographic (other than cinematographic) cameras
95.	9101.90 or 9102.90	Watches
96.	9103 or 91.05	Clocks
97.	96.12	All goods
98.	96.17	Vacuum flasks'.

THE SIXTH SCHEDULE

[*See* sections 141(1) and 142 (1)]

S. No.	Provisions of the Central Excise Rules, 1944 to be amended	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	Sub-rule(5) of rule 57R of the Central Excise Rules, 1944 as substituted by notification No. G.S.R. 324(E), dated the 23rd July, 1996[14/96-Central Excise (N.T.), dated the 23rd July, 1996]	In the Central Excise Rules, 1944 in rule 57R, for sub-rule (*5*), the following sub-rule shall be substituted, naemly:— "(5) Credit of specified duty in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer claims as depreciation under section 32 of the Income-tax Act, 1961 (43 of 1961).".	23rd day of July, 1996.
2.	Sub-rule(8) of rule 57R of the Central Excise Rules, 1944 as inserted by notification No. G.S.R. 122(E), dated the 1st March, 1997 [6/97-Central Excise (N.T.),dated the 1st March, 1997]	In the Central Excise Rules, 1944, in rule 57R, for sub-rule (*8*), the following sub-rule shall be substituted, naemly:— "(*8*) Credit of specified duty in respect of capital goods shall not be allowed in respect of that part of the value of capital goods which represents the amount of duty on such capital goods, which the manufacturer claims as depreciation under section 32 of the Income-tax Act, 1961 (43 of 1961).".	1st day of March, 1997.
3.	Sub-rule(12) of rule 57F of the Central Excise Rules, 1944 as substituted by notification No. G.S.R. 122(E), dated the 1st March, 1997[6/97-Central Excise (N.T.), dated the 1st March, 1997]	In the Central Excise Rules, 1944, in rule 57F, in sub-rule (*12*), the following proviso shall be inserted, namely:— "Provided that the credit of specified duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under the notification numbers 32/99-Central Excise, dated the 8th July, 1999 [G.S.R.508(E), dated the 8th July, 1999] and 33/99-Central Excise, dated the 8th July, 1999 [G.S.R.509 (E),dated the 8th July, 1999], shall be utilized only for payment of duty on final products cleared after availing of the exemption under the said notification numbers 32/99-Central Excise, dated the 8th July, 1999 and 33/99-Central Excise, dated the 8th July, 1999.".	8th day of July, 1999.
4.	Clause (b)of sub-rule (1) of rule 57AB of the Central Excise Rules, 1944 as substituted by notification No. G.S.R. 203(E),dated the 1st March, 2000 [11/2000-Central Excise (N.T.), dated the 1st March, 2000]	In the Central Excise Rules, 1944, in rule 57AB, in sub-rule (*1*), in clause (*b*),before the *Explanation, the* following proviso shall be inserted, namely:— "Provided that the CENVAT credit of the duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under the notification numbers 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated the 8th July, 1999] and 33/99- Central Excise, dated the 8th July, 1999 [G.S.R. 509 (E),	1st day of April, 2000.

(1)	(2)	(3)	(4)
		dated the 8th July, 1999], shall be utilized only for payment of duty on final products cleared after availing of the exemption under the said notification numbers 32/99-Central Excise, dated the 8th July, 1999 and 33/99-Central Excise, dated the 8th July, 1999.".	

THE SEVENTH SCHEDULE

[*See* section 143(1)]

Provisions of the CENVAT Crdit Rules, 2001 to be amended	Amendment	Date of effect of amendment
(1)	(2)	(3)
Sub-rule (3) of rule 3 of the CENVAT Credit Rules, 2001 as published *vide* notification No. G.S.R. 445(E), dated the 21st June, 2001[31/2001-Central Excise (N.T.), dated the 21st, June, 2001]	In the CENVAT Credit Rules, 2001, in rule 3, in sub-rule (3), after the proviso, the following proviso shall be inserted, namely:— "Provided further that the the CENVAT credit of the duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under the notification numbers 32/99-Central Excise, dated the 8th July, 1999 [G.S.R. 508(E), dated the 8th July, 1999] and 33/99-Central Excise, dated the 8th July, 1999 [G.S.R. 509(E), dated the 8th July, 1999], shall be utilized only for payment of duty on final products cleared after availing of the exemption under the said notification numbers 32/99-Central Excise, dated the 8th July, 1999 and 33/99-Central Excise, dated the 8th July, 1999".	1st day of July, 2001

THE EIGHTH SCHEDULE

[*See* section 145(1)]

S. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 508 (E), dated the 8th July, 1999 [32/1999-Central Excise, dated the 8th July, 1999]	In the said notification, in paragraph 2, in clause (*b*), the following proviso shall be inserted, namely:— "Povided that such refund shall not exceed the amount of duty paid less amount of the CENVAT credit availed of, in respect of the duty paid on the inputs used in or in to the relation manufacture of goods cleared under this notification.".	8th July, 1999.
2.	G.S.R. 509 (E), dated the 8th July, 1999 [33/1999-Central Excise, dated the 8th July, 1999]	In the said notification, in paragraph 2, in clause (*b*), the following proviso shall be inserted, namely:— "Povided that such refund shall not exceed the amount of duty paid less the amount of the CENVAT credit availed of, in respect of the duty paid on the inputs used in or in relation to the manufacture of goods cleared under this notification.".	8th July, 1999.

THE NINTH SCHEDULE

[*See* section 146(1)]

S. No.	Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)	(4)
1.	G.S.R. 508 (E), dated the 8th July, 1999 [32/99- Central Excise, dated the 8th July, 1999]	In the said notification, in the opening paragraph,—	
		(*i*) the following proviso shall be inserted at the end, namely:— "Provided that exemption contained in this notification shall not be applicable to—	8th July, 1999.
		(*a*) cigarettes falling under Chapter 24 of the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); and	
		(b) pan masala containing tobacco, falling under sub-heading No. 2106.00 or 2404.49, as the case may be, of the First Schedule or the Second Schedule to the said Central Traiff Act.";	
		(*ii*) for the proviso, as inserted by clause (i), the following proviso shall be substituted, namely:—	1st March, 2001.
		"Provided that the exemption contained in this notification shall not be applicable to the goods falling under Chapter 24.";	
		(*iii*) after the proviso, the following proviso shall be inserted, namely:—	
		"Provided further the exemption contained in this notification shall1 not be applicable to the goods manufactured and cleared from—	12th February, 2002.
		(*1*) Numaligrah Refineries Limited; or	
		(*2*) Bongaigaon Refineries and Petrochemicals Limited; or	
		(*3*) Indian Oil Corporation, Guwahati; or	
		(*4*) Assam Oil Division, Indian Oil Corporation, Digboi.".	
2.	G.S.R. 509 (E), dated the 8th July, 1999 [33/1999-Central Excise, dated the 8th July, 1999]	In the said notification, in the opening paragraph,—	
		(i) the following proviso shall be inserted at the end, namely:— "Provided that exemption contained in this notification shall not be applicable to—	8th July, 1999.
		(*a*) cigarettes falling under Chapter 24 of the First Schedule or the Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); and	
		(*b*) pan masala containing tobacco, falling under sub-heading No. 2106.00 or 2404.49, as the case may be, of the First Schedule or the Second Schedule to the said Central Excise Tariff Act.",	

(1)	(2)	(3)	(4)
		(*ii*) for the proviso, as inserted by clause (*i*), the following proviso shall be substituted, namely:—	
		"Provided that the exemption conained in this notification shall not be applicable to the goods falling under Chapter 24.".	1st March, 2001

THE TENTH SCHEDULE

[*See* section 147*(a)*]

PART I

In the First Schedule to the Central Excise Tariff Act,—

(*1*) in Chapter 11, after NOTE 2, the following NOTE shall be inserted, namely:—

'3. In relation to the products of heading No. 11.03, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".'

(*2*) in Chapter 15,—

(*i*) after NOTE 3, following NOTE shall be inserted, namely:—

'4. In relation to the products of sub-heading Nos. 1502.00, 1503.00, 1504.00 and 1508.90, labelling or relabelling of containers and repacking from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to "manufacture".';

(*ii*) In sub-heading Nos. 1502.00, 1503.00, 1504.00 and 1508.90 for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted.'.

(3) in Chapter 25,—

(*i*) in sub-heading No. 2502.10, for the entry in column (4), the entry "Rs. 250 per tonne" shall be substituted;

(*ii*) in sub-heading No. 2502.29, for the entry in column (4), the entry "Rs. 400 per tonne" shall be substituted;

(4) in Chapter 36, in sub-heading No. 3605.90, for the entry in column (4), the entry "16%" shall be substituted;

(5) in Chapter 59, in sub-heading No. 5906.91, for the entry in column (4), the entry "16%" shall be substituted;

(6) in Chapter 73, after NOTE 4, the following NOTE shall be inserted, namely:—

'5. In relation to the pipes and tubes of heading Nos. 73.04 and 73.05, the process of coating with cement or polyethylene or other plastic materials shall amount to "manufacture".';

(7) in Chapter 87, in sub-heading Nos. 8706.29, 8706.42 and 8706.49, for the entry in column (4) occurring against each of them, the entry "16% *plus* Rs. 10,000 per chassis" shall be substituted.

PART II

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)

In the First Schedule to the Central Excise Tariff Act, in Chapter 27, for sub-heading No. 2710.90 and the entries relating thereto, the following shall be substituted, namely:—

		":Other:	
	2710.91	-Superior kerosene oil	16%
	2710.92	-Aviation turbine fuel	16%
	2710.93	-High speed diesel oil	16%
	2710.94	-Light diesel oil	16% *Plus* Rs. 1.50 per litre
	2710.95	-Lubricating oil	16%
	2710.99	-Other	16%".

THE ELEVENTH SCHEDULE

[*See* section 147*(b)*]

In the Second Schedule to the Central Excise Tariff Act, in sub-heading Nos. 2108.10, 2201.20, 2202.20, 4011.90, 4012.11, 4012.19, 4012.90, 4013.90, 5402.20, 5402.32, 5402.42, 5402.43, 5402.52, 5402.62, 8415.00, 8702.10, 8703.90, 8704.90, 8706.21, 8706.39 and 8706.49, for the entry in column (4) occurring against each of them, the entry "8%" shall be substituted.

THE TWELFTH SCHEDULE

[*See* section 152(1)]

Notification No. and date	Amendment	Date of effect of amendment
(1)	(2)	(3)
G.S.R. 639 (E), dated the 5th November, 1997 [43/97-Service Tax, dated 5th November, 1997]	In the said notification, in the opening paragraph— (a) for clauses (i) and (ii), the following clauses shall be substituted, namely:— "(i) any factory registered under or governed by the Factories Act, 1948 (63 of 1948), other than a factory registered as small scale industry with the State Government; (ii) any company established by or under the Companies Act, 1956 (1 of 1956), other than a company which is solely and exclusively a trading company and is also registered as a private limited company;"; *(b)* clause *(viii)* shall be omitted.	16th November, 1997

THE THIRTEENTH SCHEDULE

[*See* sections 126 (1) and 161]

In the Seventh Schedule to the Finance Act, 2001 (14 of 2001), after the heading No. 24.04 and its sub-heading No.2404.99 and the entries relating thereto, the following heading Nos., sub-heading Nos. and entries shall be inserted, namely:—

Heading No.	Sub-heading No.	Description of goods	Rate of duty
(1)	(2)	(3)	(4)
"27.09	2709.00	Petroleum oils and oils obtained from bituminous minerals, crude	Rs. 50 per tonne
54.02	5402.20	- High tenacity yarn of polyesters	1%
	5402.32	-- Of polyesters	1%
	5402.42	-- Of polyesters, partially oriented	1%
	5402.43	-- Of polyesters, other	1%
	5402.52	-- Of polyesters	1%
	5402.62	-- Of polyesters	1%
87.02	8702.10	- Motor vehicles principally designed for the transport of more than six persons, but not more than twelve persons, excluding the driver, including station wagons	1%
87.03	8703.90	- Other	1%
87.04	8704.90	- Other	1%
87.06	8706.21	-- For the vehicles of sub-heading No. 8702.10	1%
	8706.39	-- For the vehicles of sub-heading No. 8703.90	1%
	8706.49	-- For the vehicles of sub-heading Nos. 8704.30 or 8704.90	1%
87.11	8711.10	- Two-wheeled motor vehicles of engine capacity not exceeding 75 cubic centimetres	1%
	8711.20	- Two-wheeled motor vehicles of engine capacity exceeding 75 cubic centimetres	1%".

STATEMENT OF OBJECTS AND REASONS

The object of the Bill is to give effect to the financial proposals of the Central Government for the financial year 2003-2004. The notes on clauses explain the various provisions contained in the Bill.

NEW DELHI; JASWANT SINGH.

The 28th February, 2003.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 2(6)-B(D)/2003, dated the 28th February, 2003 from Shri Jaswant Singh, Minister of Finance and Company Affairs, to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the proposed Bill, recommends under clause (1) of article 117, read with clause (I) of article 274, of the Constitution of India, the introduction of the Finance Bill, 2003 to the Lok Sabha and also recommends to the Lok Sabha the consideration of the Bill.

2. The Bill will be introduced in the Lok Sabha immediately after the presentation of the Budget on the 28th February, 2003.

Notes on clauses

Income-tax

Clause 2, read with the First Schedule to the Bill, seeks to specify the rates at which income-tax is to be levied on income chargeable to tax for the assessment year 2003-2004.Further, it lays down the rates at which tax is to be deducted at source during the financial year 2003-2004 from income subject to such deduction under the Income-tax Act; and the rates at which "advance tax" is to be paid, tax is to be deducted at source from or paid on income chargeable under the head "Salaries" and tax is to be calculated and charged in special cases for the financial year 2003-2004.

Rates of income-tax for the assessment year 2003-2004

Part I of the First Schedule to the Bill specifies the rates at which income is liable to tax for the assessment year 2003-2004. These rates are the same as those specified in Part III of the First Schedule to the Finance Act, 2002, for the purposes of deduction of tax at source from"Salaries", computation of "advance tax" and charging of income-tax in special cases during the financial year 2002-2003.

Rates for deduction of tax at source during the financial year 2003-2004 from income other than "Salaries"

Part II of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at source during the financial year 2003-2004 from incomes other than "Salaries". These rates are broadly the same as those specified in Pat II of the First Schedule to the Finance Act, 2002, for the purposes of deduction of income-tax at source during the financial year 2002-2003. The amount of tax so deducted shall be increased by surcharge—

(i) in the case of every individual, Hindu undivided family, association of persons and body of individuals,whether incorporated or not, at the rate of ten per cent. of such tax where the income or the aggregate of such incomes paid or likely to be paid and subejct to the deduction exceeds eight hundred and fifty thousand rupees;

(ii) in the case of every co-operative society, firm, local authority and company, at the rate of two and one-half per cent. of such tax; and

(iii) in the case of evry artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, at the rate of ten per cent of such tax.

Rates for deduction of tax at source from "Salaries" computation of "advance tax" and charging of income-tax in special cases during the financial year 2003-2004.

Part III of the First Schedule to the Bill specifies the rates at which income-tax is to be deducted at souce from , or paid on, income under the head "Salaries" and also the rates at which "advance tax" is to be paid and income-tax is to be calculated or charged in special cases for the financial year 2003-2004.

Paragraph A of this Part specifies the rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not,or every artifical juridical person referred to in sub-clasue (vii) of clause (31) of section 2 of the Income-tax Act, not being a case to which any other Paragraph of Part III applies. No change is proposed in the rate structure.

Paragraph B of this Part specifies the rates of income-tax in the case of every co-operative society. In such cases, the rates of tax will continue to be the same as those specified for assessment year 2003-2004.

Paragraph C of this Part specifies the rate of income-tax in the case of every firm. In such cases, the rate of tax will continue to be the same as that specified for assessment year 2003-2004.

Paragraph D of this Part specifies the rate of income-tax in the case of every local authority. In such cases, the rate of tax will continue to be the same as that specified for assessment year 2003-2004.

Paragraph E of this Part specifies the rates of income-tax in the case of companies. In the case of companies, the rates of tax will continue to be the same as that specified for the assessment year 2003-2004, *i.e.,* thirty-five per cent, in the case of domestic companies and forty per cent in the case of foreign companies

In the case of every person being an individual, Hindu undivided family, association of persons or body of individuals whose income exceeds eight hundred and fifty thousand rupees and where income-tax is to be deducted at source or "advance tax" is payable in accordance with the provisions of this Part, such amount of Income-tax after allowing rebate under Chapter VIII-A, is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such tax.

In the case of every artificial juridical person,where income-tax is to be computed in accordance with the provisions of this Part, such amount of income-tax is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of ten per cent of such tax.

In the case of every co-operative society, firm, local authority or company where income-tax is to be computed in accordance with the provisions of this Part, such amount of income-tax is proposed to be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent of such tax.

Clause 3 seeks to amend section 2 of the Income-tax Act relating to definitions.

Under the existing provision contained in sub-section (xii) of clause (24) of the said section, sums referred to in clause (vii) of section 28 are included in the definition of income.

The proposed amendment seeks to amend the said sub-clause (xii) so as to give reference of clause (va) of section 28. The proposed amendment is consequential in nature.

This amendment will take effect retrospectively from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

It is further proposed to insert a new sub-clause (h) in clause (i) in *Explanation 1* of clause (42A) of the said section so as to provide that in the case of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a person pursuant to demutualisation or corporatisation of the recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included while calculating the period for holding of trading or clearing rights the period, for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation.

It is also proposed to insert a new sub-clause (ha) in clause (i) in *Explanation 1* of clause (42A) of the said section so as to provide that in the case of a capital asset being equity share or shares in a company allotted pursuant to demutualisation or corporatisation of a recognised stock exchange in India as referred to in clause (xiii) of section 47, there shall be included while calculating the period for holding of equity shares in the successor company, the period for which the person was a member of the recognised stock exchange in India immediately prior to such demutualisation or corporatisation.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 4 seeks to amend section 6 of the Income-tax Act relating to residence in India.

Under the existing provision contained in clause (6) of the said section, a person is said to be "not ordinarily resident" in India in any previous year if such person is an individual who has not been resident in India in nine out of the ten previous years preceding that year, or has not, during the seven previous years preceding that year, been in India for

a period of, or periods amounting in all to, seven hundred and thirty days or more or a Hindu undivided family whose manager has not been resident in India in nine out of the ten previous years, preceding that year or has not, during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and thirty days or more.

It is proposed to substitute the said clause (6) so as to provide that a person would be "not ordinarily resident" in India in any previous year if such person is an individual who has been non-resident in India in nine out of the ten previous years preceding that year, or has, during the seven previous years preceding that year, been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less or a Hindu undivided family whose manager has been non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period of, or periods amounting in all to, seven hundred and twenty-nine days or less. The proposed amendment is clarificatory in nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 5 seeks to amend section 9 of the Income-tax Act, relating to income deemed to accrue or arise in India.

Under the existing provisions contained in sub-section *(1)* of section 9, all income accruing or arising, whether directly or indirectly, through or from any business connection in India, or through or from any property in India, or through or from any asset or source of income in India, or through the transfer of a capital asset situate in India, shall be deemed to accrue or arise in India. This term has also been referred to in section 163 in relation to an agent. The term "business connection" has, however, not been defined in the Income-tax Act.

It is proposed to insert *Explanation 2* in clause (i) of sub-section (1) of the said section so as to remove any doubts regarding "business connection" and to provide that the expression "business connection" shal include any business activity carried out through a person who, acting on behalf of the non-resident,–

(i) has and habitually exercises in India an authority to conclude contracts on behalf of the non-resident, unless his activities are limited to the purchase of goods of merchandise for the non-resident; or

(ii) has no such authority, but habitually maintaines in India a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the non-resident; or

(iii) habitually secures orders in India, mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control, as that non-resident.

The expression "business connection", however, shall not be held to be established in cases where the non-resident carries on business through a broker, general commission agent or any other agent of an independent status, if such a person is acting in the ordinary course of his business.

It is further proposed to insert *Explanation* 3 so as to provide that a broker, general commission agent or any other agent (hereafter referred to in this section as commission agent) shall be deemed to have an independent status where such commission agent does not work mainly or wholly for the non-resident or for that non-resident and other non-residents controlling, controlled by, or subject to the same common control as that non-resident.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 6 seeks to amend section 10 of the Income-tax Act relating to incomes not included in total income.

Under the existing provision contained in clause (*6C*) of the said section, any income arising to a foreign company, notified by the Central Government in the Official Gazette, by way of fees for technical services received in pursuance of an agreement entered into with that Government for providing services in or outside India in projects connected with security of India, is not included in computing its total income.

It is proposed to amend the said clause (*6C*) so as to bring income arising by way of royalty also within the scope of the aforesaid section.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (*10C*), any amount received by an employee of a public sector company or any other company or an authority established under a Central, State or Provincial Act or a local authority or a co-operative society or a University or an Indian Institute of Technology or any State Government or the Central Government or an institution, having its importance throughout India or any State or States, as may be specified by the Central Government, by notification in the Official Gazette, or a notified institute of management, at the time of voluntary retirement or termination of his service in accordance with any scheme or schemes of voluntary retirement, or in the case of a public sector company, a scheme of voluntary separation, to the extent such amount does not exceed five lakh rupees, is not included in computing the total income of such employee.

It is proposed to amend the said clause (*10C*) so as to provide that any amount, not exceeding five lakh rupees, received or receivable by such employee on his voluntary retirement or termination of his service shall not be included in computing the total income of such employee.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (*10C*), any sum received under a life insurance policy, including the sum allocated by way of bonus on such policy other than any sum received under sub-section (*3*) of section 80DDA or any sum received under a Keyman insurance policy, shall be exempt.

It is proposed to substitute the said clause, so as, *inter alia,* to provide that any sum received, under an insurance policy in respect of which the premium paid during any year exceeds twenty per cent. of the actual capital sum assured, shall not be exemp. However, such sum received under the proposed sub-clause (*iii*) on the death of a person shall be exempt. It is also proposed to clarify that for the purpose of calculating the actual capital sum assured under this clause, effect shall be given to the *Explanation* to sub-section (*2A*) of section 88 of the Income-tax Act. It is also proposed to provide that any sum received under sub-section (3) of section 80DD shall not be exempt.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to amend item (*g*) of sub-clause (*iv*) of clause (*15*) so as to provide that the interest payable by a public company formed and registered in India with the main object of carrying on the business of providing long-term finance for construction or purchase of houses in India for residential purposes, being a company eligible for deduction under clause (*viii*) of sub-section (*1*) of section 36, on any moneys borrowed by it in foreign currency from sources outside India under a loan agreement approved by the Central Government only before the 1st day of June, 2003 shall not be included in the total income.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (*23BBD*), any income of the Secretariat of the Asian Organisation of the Supreme Audit Institutions registered as "ASOSAI-

SECRETARIAT" under the Societies Registration Act, 1860 for a period of three previous years relevant to the assessment years beginning on the 1st day of April, 2001 and ending on the 31st day of March, 2004, is not to be included in computing its total income.

It is proposed to amend the said clause (*23BBD*) so as to extend the exemption for a further period of four assessment years beginning on the 1st day of April, 2004 and ending on the 31st day of March, 2008.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and three subsequent years.

It is proposed to amend clause (*23D*) so as to give reference of Chapter XII-E in that clause. The proposed amendment is of consequential nature.

This amendment will take effec from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (23EB), the income of the Credit Guarantee Fund Trust for Small Scale Industries is exempt from tax for a period of five years relevant to the assessment years beginning on the 1st day of April, 2002 and ending on the 31st day of March, 2007.

It is proposed to amend the said clause so as to substitute the expression "Credit Guarantee Fund Trust for Small Scale Industries" by "Credit Guarantee Fund Trust for Small Industries". The proposed amendment is of clarificatory nature.

This amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and four subsequent years.

It is proposed to exclude dividents referred to in section 115-O from the purview of clause (*23FA*). The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (*23G*), any income by way of dividends, interest or long-term capital gains of an infrastructure capital fund or an infrastructure capital company or a co-operative bank from investments made by way of shares or long-term finance in any infrastructure undertaking or a housing project is not included in computing its total income. In *Explanation 1* to the said clause, "infrastructure capital company" or "infrastructure capital fund" has been defined to be such company or fund which makes investment in an enterprise wholly engaged in the business of (*i*) developing, or (*ii*) maintaining and operating, or (*iii*) developing, maintaining and operating any infrastructure facility.

It is proposed to exclude dividends referred to in section 115-O from the purview of clause (*23G*). The proposed amendment is of consequential nature.

It is also proposed to amend the said clause (*23G*) so as to bring projects for construction of hotels of three star category or more or projects for construction of hospitals also one hundred beds or more in the list of eligible businesses under that clause.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is also proposed to amend clause (*a*) of *Explanation 1* to the said clause (*23G*) so as to provide that an "infrastructure capital company" shall mean such company which has made investments by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business referred to in this clause.

This amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

It is also proposed to amend clause (b) of *Explanation 1* to the said clause (23G) so as to provide that an "infrastructure capital fund" shall mean such fund operating under a trust deed registered under the provisions of the Registration Act, 1908 established to raise monies by the trustees for investment by way of acquiring shares or providing long-term finance to an enterprise wholly engaged in the business referred to in this clause.

This amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

It is also proposed to amend *Explanation 1* to the said clause (23G) so as to define the expressions "hotel project" and "hospital project" used in that clause.

This amendment will take effect from 1st April, 2004 and will, accordingly apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to insert a new clause (26BBB) in the said section so as to exempt, any income of a corporation established by a Central, State or Provincial Act for the welfare and economic upliftment of ex-servicemen, being citizens of India. This clause also defines the expression "ex-serviceman" used in that clause.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is also proposed to insert a new clause (33) in the said section so as to provide that any income aising from the transfer of a capital asset, being a unit of Unit Scheme, 1964 referred to in Schedule 1 to the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 and where the transfer of such assets takes place on or after the 1st day of April, 2002, shall be exempt from tax.

This amendment will take effect retrospectively from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

It is also proposed to insert clause (34) in the said section so as to provide that any income by way of dividends referred to in section 115-O shall not be included in computing the total income of a previous year of any person.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is also proposed to insert a new clause (35) in the said section to provide that any income by way of income received in respect of units from the Administrator of the specified undertaking or the specified company or a Mutual Fund specified under clause (23D) shall be exempt. It has also been povided that the clause shall not apply to any income arising from transfer of units of the Administrator of the specified undertaking or of the specified company or of a mutual fund, as the case may be.

It is also proposed to define the expressions "Administrator" and "specified company" used in the said clause.

These amendments will take effect from 1st April, 2004, and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to insert a new clause (36) in the said section so as to provide that any income arising from transfer of a long-term capital asset, being equity share in a company listed in any recognised stock exchange in India and acquired on or after the 1st day of March, 2003 but before the 1st day of March, 2004, shall be exempt from tax.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 7 seeks to amend section 10A of the Income-tax Act relating to special provision in respect of newly established undertakings in free trade zone, etc.

Under the existing provision contained in sub-section (1) of the said section, a deduction of such pofits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years is allowed from the total income of the assessee. However, no deduction is allowable to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years. Sub-section (1A) of the said section provides that an undertaking set up in special economic zone on or after the 1st day of April, 2003 is eligible for a deduction of hundred per cent, of export profits for five years and fifty per cent, for further two assessment years. Under sub-section (9), no deduction under sub-section (1) is allowed to the assessee where the ownership or the beneficial interest in the undertaking is transferred by any means. However, this condition is not applicable where as a result of the reorganisation of the business, a firm or sole proprietary concern is succeeded by a company.

It is poposed to insert the reference of sub-section (1A) in sub-section (4) of the said section. The proposed amendment is consequential in nature.

It is also proposed to amend sub-section (5) so as to insert the reference of "this section" instead of "sub-section (1)". The proposed amendment is consequential in nature.

These amendments will take effect retrospectively from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

It is also proposed to omit sub-sections (9) and (9A) and *Explanation 1* occurring below sub-section (9A). It is also proposed to insert a new sub-section (7A) to provide that where a company is transferred to another company under a scheme of amalgamation or demerger, the deduction shall be allowable in the hands of the amalgamated or the resulting company. However, no deduction shall be admissible under this section to the amalgamating company or the demerged company for the previous year in which the amalgamation or demerger takes place.

It is also proposed to insert *Explanation 4* at the end so as to provide that for the pruposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 8 seeks to amend section 10B of the Income-tax Act relating to special provisions in respect of newly established hundred per cent, export-oriented undertakings.

Under the existing provision contained in sub-section (1) of the said section, a deduction of such profits and gains as are derived by an undertaking from the export of articles or things or computer software for a period of ten consecutive assessment years is allowed from the total income of the assessee. However, no deduction is allowable to any undertaking for the assessment year beginning on the 1st day of April, 2010 and subsequent years. Under sub-section (9), no deduction under sub-section (1) is allowed to the assessee where the ownership or the beneficial interest in the undertaking is transferred by any means. However, this condition is not applicable where as a result of the reorganisation of the business, a firm or sole proprietary concern is succeeded by a company.

It is also proposed to omit sub-section (9) and (9A) and *Explanation 1* occurring below sub-section (9A). It is also proposed to insert a new sub-section (7A) so as to provide that where a company is transferred to another company under a scheme of amalgamation or demerger, the deduction shall be allowable in the hands of the amalgamated or the resulting company. However, no deduction shall be admissible under this section to the amalgamating company or the demerged company for the previous year in which the amalgamation or demerger takes place.

It is also proposed to insert *Explanation 4* at the end so as to provide that for the purposes of this section, "manufacture or produce" shall include the cutting and polishing of precious and semi-precious stones.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 9 seeks to amend section 10C of the Income-tax Act relating to special provision in respect of certain industrial undertakings in the North-Eastern Region.

It is proposed to insert a provisio in section 10C so as to provide that no deduction under this section shall be allowed to any such undertaking for the assessment year beginning on the 1st day of April, 2004 and subsequent years.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 10 seeks to amend section 11 of the Income-tax Act relating to income from property held for charitable or religious purposes.

Under the existing provision contained in the proviso to sub-section (3A) of the said section, the Assessing Officer shall not allow application of income by way or payment or credit made for the purposes referred to in clause (d) of sub-section (3) of the said section.

It is proposed to insert a second proviso in the said sub-section (3A) so as to provide that in case the trust or institution, which has invested or deposited its income in accordance with the provisions of clause (b) of sub-section (2), is dissolved, the Assessing Officer may allow application of such income for the purposes referred to in clause (d) of sub-section (3) in the year in which such trust or institution was dissolved.

This amendment will take effect retrospectively from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

Clause 11 seeks to amend section 16 of the Income-tax Act relating to deductions from salaries.

Under the existing provision contained in sub-clause (A) of clause (i) of the said section, in the case of an assessee having income from salary up to one lakh fifty thousand rupees before allowing a deduction under this clause, a sum equal to thirty-three and one-third per cent, of the salary or thirty thousand rupees, whichever is less, is allowed as a deduction from his salary. Sub-clause (B) of clause (i) provides that in the case of an assessee having income from salary which is more than one lakh fifty thousand rupees but less than three lakh rupees before allowing a deduction under this clause, a deduction of a sum of twenty-five thousand rupees shall be allowed. Sub-clause (C) of clause (i) provides that in the case of an assessee having income from salary which is more than three lakh rupees but less than five lakh rupees before allowing a deduction under this clause, a deduction of a sum of twenty thousand rupees thall be allowed.

It is proposed to substitute the said clause (i) so as to provide that an assessee whose income from salary, before allowing a deduction under this clause, does not exceed five lakh rupees, shall be allowed a deduction of a sum equal to forty per cent. of the salary or thirty thousand rupees, whichever is less. An assessee whose income from salary, before allowing a deduction under this clause, exceeds five lakh rupees, shall be allowed a deduction of a sum of twenty thousand rupees.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 12 seeks to amend section 30 of the Income-tax Act relating to rent, rates, taxes, repairs and insurance for buildings.

Under the existing provision contained in sub-clauses (i) and (ii) of clause (a) of the said section, deduction for cost or repairs to the premises occupied by the assessee and the amount paid on account of current repairs to the premises occupied by the assessee, otherwise than as a tenant, is allowed.

It is proposed to insert an *Explanation* after clause (c) of the aforesaid section so as to clarify that the amount paid on account of the cost of repairs and the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 13 seeks to amend section 31 of the Income-tax Act relating to repairs and insurance of machinery, plant and furniture.

Under the existing provision contained in clause (i) of the said section, the amount paid on account of current repairs of machinery, plant or furniture is allowed as deduction under that section.

It is proposed to insert an *Explanation* after clause (ii) of the aforesaid section so as to clarify that the amount paid on account of current repairs shall not include any expenditure in the nature of capital expenditure.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 14 seeks to amend section 33AB of the Income-tax Act relating to Tea Development Account.

Under the existing provision contained in sub-section (1), if an assessee carrying on the business of growing and manufacturing tea in India has, during the previous year, deposited with the National Bank for Agriculture and Rural Development any amount in a special account maintained by such assessee with that Bank in accordance with the scheme approved in this behalf by the Tea Board or if an assessee opens an account, to be known as Tea Deposit Account, in accordance with a scheme framed by the Tea Board with the previous approval of the Central Government, such assessee is allowed a deduction of the amount so deposited during the previous year or forty per cent, of the profits from the business of growing or manufacturing tea in India, whichever is less.

It is proposed to allow deduction under the said section to an assessee carrying on business of growing and manufacturing coffee also.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 15 seeks to amend section 36 of the Income-tax Act relating to certain other deductions allowed under that Act.

Under the existing provision contained in clause (iii) of sub-section (1) of the said section, deduction of interest is allowed in respect of capital borrowed for the purposes of business or profession in the computation of income under the head "Profits and gains of business or profession".

It is proposed to insert a proviso in the said clause so as to provide that no such deduction shall be allowed in respect of any amount of interest paid, in respect of capital borrowed for acquisition of new asset for extension of existing business or profession (whether capitalised in the books of account or not) and such amount of interest is for the period beginning from the date on which the capital was borrowed for acquisition of the asset till the date on which such asset was first put to use.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in sub-clause (a) of clause (viia) of sub-section (1), a scheduled bank (not being a bank incorporated outside India) or a non-scheduled bank is entitled to a deduction of an amount not exceeding seven and one-half per cent. of its gross total income before making any deduction under the said clause and an amount not

exceeding ten per cent. of the aggregate average advances made by the rural branches of such bank, in respect of povision for bad and doubtful debts. Under the first proviso to sub-clause (a), such banks have an option to claim deduction in respect of any provision for any assets classified by the Reserve Bank of India as doubtful assets or loss assets in accordance with the guidelines issued by it. Under the second proviso to sub-clause (a), the amount of deduction is limited to ten per cent. of the amount of the doubtful assets or loss assets shown in the books of account of such bank on the last day of the previous year.

The proposed amendment seeks to insert a proviso to sub-clause (a) so as to provide that a scheduled bank or a non-scheduled bank referred to in that sub-clause shall, at its option, be allowed a further deduction in excess of the limits specified in the foregoing provisions, for an amount not exceeding the income derived from redemption of securities in accordance with a scheme framed by the Central Government. It is also proposed to insert another proviso to provide that no deduction shall be allowed under the third proviso unless such income has been disclosed in the return of income under the head "Profits and gains of business or profession".

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in clause (x) of sub-section (1) of the said section, in computing the income under the head "Profits and gains of business or profession" a deduction is allowed in respect of any sum paid by a public financial institution by way of contribution towards any fund specified under clause (23E) of section 10.

It is proposed to amend the said clause (x) so as to provide that the deduction shall be allowable in respect of any sum paid by a public financial institution by way of contribution towards any Exchange Risk Administration Fund set up by public financial institutions, either jointly or separately. The amendment is of clarificatory nature.

This amendment will take effect retrospectively from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

It is also proposed to insert a new clause (xii) in sub-section (1) of the said section so as to provide that any expenditure (not being in the nature of capital expenditure) incurred by a corporation or a body corporate, by whatever name called, constituted or established by a Central, State or Provincial Act for the objects and purposes authorised by the Act under which such corporation or body corporate was constituted or established shall be allowed as a deduction in computing the income referred to in section 28 of the Income-tax Act.

This amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Clause 16 seeks to amend section 40 of the Income-tax Act relating to the disallowability of an amount as deductible in computing the income chargeable under the head "Profits and gains of business or profession".

Under the existing provision contained in sub-clause (i) of clause (a) of the said section, any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under the Income-tax Act, which is payable outside India is not allowed as a deduction if tax thereon has not been paid or deducted at source. However, if tax is paid or deducted in respect of such amount in a subsequent year, the amount is allowed as a deduction in the subsequent year in which the tax is paid or deducted.

It is proposed to substitute the said sub-clause (i) to provide that where in respect of any interest (not being interest on a loan issued for public subscription before the 1st day of April, 1938), royalty, fees for technical services or other sum chargeable under the Income-tax Act, which is payable outside India or in India to a non-resident, not being a company, or to a foreign company, on which tax has not been deducted or, after deduction, has not been

paid under Chapter XVII-B shall not be allowed as a deduction in computing the income under the head "Profits and gains of business or profession". It is also provided that where in respect of any such sum tax has been deducted in accordance with Chapter XVII-B and paid before the expiry of the time prescribed under sub-section (1) of section 200, such sum shall be allowed as a deduction in computing the income of the previous year in which the liability to pay such sum was incurred. Further, where in respect of any such sum, tax has been deducted under Chapter XVII-B and paid in any subsequent year, such sum shall be allowed as a deduction in computing the income of the previous year in which such tax has been deducted and paid.

Under the existing provision contained in sub-clause (iii) of clause (a) of the said section, no deduction shall be allowed in respect of any payment which is chargeable under the head "Salaries" if it is payable outside India and if the tax has not been paid thereon nor deducted therefrom under Chapter XVII-B.

It is also proposed to substitute the said sub-clause to provide that no deduction shall be allowed in respect of any payment which is chargeable under the head "Salaries", if it is payable outside India or in India to a non-resident, on which tax has not been deducted or, after deduction, has not been paid under Chapter XVII-B.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 17 seeks to amend section 43 of the Income-tax Act relating to definitions of certain terms relevant to income from profits and gains of business or profession.

The existing provision contained in clause (3) of the said section defines the expression "plant". It is proposed to amend the said clause so as to exclude "buildings or furniture and fittings" for the purposes of the said clause.

It is also proposed to amend *Explanation 2B* in clause (6) of the said section so as to omit the words "as appearing in the books of account".

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 18 seeks to amend section 43B of the Income-tax Act relating to certain deductions to be only on actual payment.

Under the existing provisions contained in clauses (b) and (e) of the said section, deduction for any sum payable by the assessee as an employer by way of contribution to any provident fund or superannuation fund or gratuity fund or any other fund for the welfare of employees or any sum payable by the assessee as interest on any term loan from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan, as the case may be, is allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid.

The first poviso to the said section provides that the deduction shall be allowed if the sum is actually paid by the assessee on or before the due date applicable in his case for furnishing the return of income under sub-section (1) of section 139 in respect of the previous year in which the liability to pay such sum was incurred and the evidence of such payment is furnished by the assessee along with such return.

The second proviso to the said section provides that no deduction shall, in respect of any sum referred to in clause (b), be allowed unless such sum has actually been paid in cash or by issue of a cheque or draft or by any other mode on or before the due date as defined in the *Explanation* below clause (va) of sub-section (1) of section 36, and where such payment has been made otherwise than in cash, the sum has been realised within fifteen days from the due date.

It is proposed to amend clause (e) of section 43B so as to provide that any sum payable by the assessee as interest on any loan or advances from a scheduled bank in accordance with the terms and conditions of the agreement governing such loan or advances shall be allowed (irrespective of the previous year in which the liability to pay such sum was incurred by the assessee according to the method of accounting regularly employed by him) only in computing the income referred to in section 28 of that previous year in which such sum is actually paid.

It is also proposed to amend the first proviso to the said section so as to omit the references of clause (a), clause (c), clause (d), clause (e) and clause (f) which is consequential in nature.

It is also proposed to omit the second proviso to the said section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 19 seeks to amend section 44AA of the Income-tax Act relating to maintenance of accounts by certain persons carrying on business or profession.

It is proposed to amend section 44AA and insert the reference of sections 44BB and 44BBB therein. After the proposed amendment if the profits and gains from the business are deemed to be the profits and gains from the business are deemed to be the profis and gains of the assessee under section 44BB or section 44BBB, as the case may be, and the assessee claims his income to be lower than the profits or gains so deemed to be the profits and gains of his business during such previous year, such assessee shall be required to keep and maintain such books of account and other documents as may enable the Assessing Officer to compute his total income in accordance with the provisions of the Income-tax Act.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 20 seeks to amend section 44AB of the Income-tax Act relating to audit of accounts of certain persons carrying on business or profession.

It is proposed to make the provisions of the said section applicable to persons who derive income of the nature referred to in section 44BB or section 44BBB.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 21 seeks to amend section 44AE of the Income-tax Act relating to special provision for computing profits and gains of business of plying, hiring or leasing goods carriages.

Under the existing provision contained in sub-section (1) of the said section, in the case of an assessee, who owns not more than ten goods carriages and who is engaged in the business of plying, hiring or leasing such goods carriages, the income of such business chargeable to tax under the head "Profits and gains of business or profession" is deemed to be the aggregate of the profits and gains from all the goods carriages owned by him in the previous year.

It is proposed to amend the said sub-section so as to provide that the provisions of that section shall apply in the case of an assessee, who owns not more than ten goods carriages at any time during the previous year. The proposed amendment is of clarificatory nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 22 seeks to amend section 44BB of the income-tax Act relating to special provision for computing profits and gains in connection with the business of exploration, etc., of mineral oils.

Under the existing provision contained in sub-section (1) of the said section, income of a non-resident assessee who is engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the

prospecting for, or extraction or production of, mineral oils is computed at ten per cent of the aggregate of the amounts paid or payable to the assessee or to any person on his behalf, whether in or out of India on account of the provisions of such services and facilities.

The proposed amendment seeks to provide that an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 23 seeks to amend section 44BBB of the Income-tax Act relating to special provision for computing profits and gains of foreign companies engaged in the business of construction, etc., in certain turnkey power projects.

Under the existing provision contained in the said section, the income of a foreign company, engaged in the business of civil construction or erection or testing or commissioning of plant or machinery in connection with a turnkey power project, approved by the Central Government and financed under any international aid programme, is computed at ten per cent of the amount paid or payable to such assessee or to any person on his behalf, whether in or out of India on account of civil construction, erection, testing or commissioning of the aforesaid plant or machinery.

It is proposed to number the existing section as sub-section (1) of the said section and to provide that the provisions of that sub-section shall apply in relation to only those projects which are approved by the Central Government. It omits the requirement of financing of such projects under any international aid programme.

It is also proposed to insert a new sub-section (2) in the aforesaid section so as to provide that an assessee may claim lower profits and gains than the profits and gains specified in sub-section (1), if he keeps and maintains such books of account and other documents as required under sub-section (2) of section 44AA and gets his accounts audited and furnishes a report of such audit as required under section 44AB, and thereupon the Assessing Officer shall proceed to make an assessment of the total income or loss of the assessee under sub-section (3) of section 143 and determine the sum payable by, or refundable to, the assessee.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 24 seeks to amend section 44D of the Income-tax Act relating to special provisions for computing income by way of royalties, etc., in the case of foreign companies.

Under the existing provision contained in clause (b) of the said section, no deduction in respect of any expenditure or allowance shall be allowed under sections 28 to 44C in computing the income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by the foreign company with Government or with the Indian concern after the 31st day of March, 1976.

It is proposed to amend the said clause to provide that no deduction in respect of any expenditure or allowance shall be allowed under the said clause (b) of section 44D where an agreement is entered into by the foreign company with Government or with the Indian concern after 31st March, 2003.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 25 seeks to insert a new section 44DA in the Income-tax Act relating to special provision for computing income by way of royalties, etc., in case of non-residents.

The proposed new section 44DA provides that the income by way of royalty or fees for technical services received from Government or an Indian concern in pursuance of an agreement made by a non-resident (not being a company) or a foreign company with Government or the Indian concern after the 31st day of March, 2003, where such non-resident (not being a company) or a foreign company carries on business in India through a permanent establishment situated therein, or performs professional services from a fixed place of profession situated therein, and the right, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed place of profession, as the case may be, shall be computed under the head "Profits and gains of business or profession" in accordance with the provisions of the Income-tax Act. However, it is provided that no deduction shall be allowed, in respect of any expenditure or allowance which is not wholly and exclusively incurred for the business of such permanent establishment or fixed place of profession in India; or in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to its head office or to any of its other offices.

The proposed new section also requires that every non-resident (not being a company) or a foreign company shall keep and maintain books of account and other documents in accordance with the provisions contained in section 44AA and get his accounts audited by an accountant as defined in the *Explanation* below sub-section (2) of section 288 and furnish along with the return of income, the report of such audit duly signed and verified by such accountant.

It also defines the expressions "fees for technical services", "royalty" and "permanent establishment" used in the said section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 26 seeks to amend section 45 of the Income-tax Act relating to capital gains.

Under the existing provision contained in sub-section (5) of the said section, capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, and the compensation or the consideration for such transfer is enhanced or further enhanced by any court, Tribunal or other authority, the capital gain is computed in the manner specified in that sub-section after taking into account the compensation or consideration or enhanced compensation or consideration, as the case may be.

The proposed amendment seeks to insert a new clause (c) in sub-section (5) to provide that where the amount of the compensation or consideration is subsequently reduced by any court, Tribunal or other authority, the capital gain of that year, in which the compensation or consideration received was taxed, shall be recomputed accordingly.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 27 seeks to amend section 47 of the Income-tax Act relating to transactions not regarded as transfer.

It is proposed to amend clause (xiii) of the said section so as to substitute the expression "demutualisation or corporatisation" for the expression "corporatisation". The proposed amendment is of consequential nature.

It is also proposed to insert a new clause (xiiia) in the said section so as to provide that any transfer of a capital asset being a membership right held by a member of a recognised stock exchange in India for acquisition of shares and trading or clearing rights acquired by such member in that recognised stock exchange in accordance with a scheme for demutualisation or corporatisation which is approved by the Securities and Exchange Board

of India established under section 3 of the Securities and Exchange Board of India Act, 1992 shall not be regarded as transfer of capital asset for the purposes of capital gain.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 28 seeks to amend section 55 of the Income-tax Act relating to cost of acquisition of a capital asset.

It is proposed to amend clause (ab) of the said section so as to substitute the expression "demutualisation or corporatisation" for the expression "corporatisation". The proposed amendment is of consequential nature.

It is also proposed to insert a proviso to the said clause (ab) so as to provide that the cost of a capital asset, being trading or clearing rights of a recognised stock exchange in India acquired by a shareholder who has been allotted equity share or shares under such scheme of demutualisation or corporatisation, shall be deemed to be *nil*.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 29 seeks to amend section 57 of the Income-tax Act relating to deductions in respect of income chargeable under the head "Income from other sources".

It is proposed to exclude dividends referred to in section 115-O from the purview of clause (i) of the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 30 seeks to amend section 72A of the Income-tax Act relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger, etc.

Under the existing provision contained in sub-section (1) of the said section, when a company owning an industrial undertaking or a ship amalgamates with another company, the amalgamated company will be allowed to carry forward and set off accumulated losses and unabsorbed depreciation of the amalgamating company. Sub-section (2) of the said section specifies certain conditions required to be fulfilled for availing of the benefit under sub-section (1).

It is proposed to substitute sub-sections (1) and (2) of the said section.

The proposed new sub-section (1) provides that where there has been an amalgamation of a company owning an industrial undertaking or a ship or a hotel with another company or an amalgamation of a banking company referred to in clause (c) of section 5 of the Banking Regulation Act, 1949 with a specified bank, then, notwithstanding anything contained in any other provision of the Income-tax Act, the accumulated loss and the unabsorbed depreciation of the amalgamating company shall be deemed to be the loss or, as the case may be, allowance for depreciation of the amalgamated company for the previous year in which the amalgamation was effected, and other provisions of the Income-tax Act relating to set off and carry forward of loss and allowance for depreciation shall apply accordingly.

The proposed new sub-section (2) provides that the accumulated loss, notwithstanding anything contained in sub-section (1) , shall not be set off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless the conditions specified in that sub-section are fulfilled by the amalgamating company and amalgamated company, *i.e.* the amalgamating company (a) has been engaged in the business for at least three years during which the accumulated loss has occurred or the unabsorbed depreciation has accumulated; (b) has held continuously as on the date of the amalgamation at least three-fourths of the book value of fixed assets held by it two years prior to the date of amalgamation and the amalgamated company (i) holds continuously for

a minimum period of five years from the date of amalgamation at least three-fourths of the book value of fixed assets of the amalgamating company acquired in a scheme of amalgamation; (ii) continues the business of the amalgamating company for a minimum period of five years from the date of amalgamation; (iii) fulfills such other conditions as may be prescribed to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose. The conditions to be fulfilled by the amalgamated company are on the lines of existing provisions contained in sub-section (2).

It is also proposed to define the expression "specified bank" used in new sub-section (1).

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 31 seeks to substitute section 80DD of the Income-tax Act relating to deduction in respect of maintenance including medical treatment of handicapped dependant.

Under the existing provision contained in sub-section (1) of the said section 80DD, an assessee, who is a resident in India, being an individual or a Hindu undivided family, is allowed a deduction of rupees forty thousand if he has, during the previous year, incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a handicapped dependant; or paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Unit Trust of India, subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of handicapped dependant, in respect of that previous year.

It is proposed to substitute the said section to provide for deduction in respect of maintenance including medical treatment of a dependant, being a person with disability.

The proposed sub-section (1) seeks to provide that where an assessee, being an individual or a Hindu undivided family, who is a resident in India, has, during the previous year, incurred any expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability, or paid or deposited any amount under a scheme framed in this behalf by the Life Insurance Corporation or any other insurer or the Administrator referred to in clause (a) or the specified company, subject to the conditions specified in sub-section (2) and approved by the Board in this behalf for the maintenance of a dependant, being a person with disability, the assessee shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum of fifty thousand rupees from his gross total income in respect of the previous year. However, in cases where such dependant is a person with severe disability, the deduction shall be seventy-five thousand rupees instead of fifty thousand rupees.

The proposed sub-section (2) seeks to provide that the deduction under clause (b) of the proposed new sub-section (1) shall be allowed only if the conditions specified in that sub-section are fulfilled. Such conditions are (a) the scheme referred to in clause (b) of sub-section (1) provides for payment of annuity or lump sum amount for the benefit of a dependant, being a person with disability, in the event of the death of the individual or the member of the Hindu undivided family in whose name subscription to the scheme has been made; and (b) the assessee nominates either the dependant, being a person with disability, or any other person or a trust to receive the payment on his behalf, for the benefit of the dependant, being a person with disability.

The proposed sub-section (3) seeks to provide that if the dependant, being a person with disability, predeceases the individual or the member of the Hindu undivided family referred to in sub-section (2), an amount equal to the amount paid or deposited under clause (b) of sub-section (1) shall be deemed to be the income of the assessee of the previous year in which such amount is received by the assessee and shall, accordingly, be chargeable to tax as the income of that previous year.

The proposed sub-section (4) seeks to provide that the asssessee, claiming deduction under this section, shall furnish a copy of the certificate issued by the medical authority in

the prescribed form and manner, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed. However, where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income.

The proposed new section also defines the expressions "Administrator", "dependant", "disability", "Life Insurance Corporation", "medical authority", "person with disability", "person with severe disability" and "specified company".

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 32 seeks to substitute a new section for section 80DDB of the Income-tax Act relating to deduction in respect of medical treatment, etc.

Under the existing provision contained in the said section, a deduction is allowed to an assessee being an individual or a Hindu undivided family for expenditure incurred for the medical treatment of the individual himself or his dependant relative or any member of a Hindu undivided family in respect of disease or ailment which may be specified by the rules. The deduction is limited to forty thousand rupees. The senior citizens are allowed a deduction of sixty thousand rupees. The assessee shall have to submit a certificate in the prescribed form and from such authority as may be prescribed.

It is proposed to substitute the said section by a new section so as to provide that where an assessee who is resident in India has, during the previous year, actually incurred any expenditure for the medical treatment of such disease or ailment, as may be specified by the rules made in this behalf by the Board, for himself or a dependant, in case the assesssee is an individual or for any member of a Hindu undivided family, in case the assessee is a Hindu undivided family, he shall be allowed a deduction of the expenditure actually incurred or a sum of forty thousand rupees, whichever is less, in respect of the previous year in which such expenditure was incurred. Where the expenditure incurred is in respect of the assessee or his dependant or any member of a Hindu undivided family who is a senior citizen, he shall be allowed the said deduction up to sixty thousand rupees. However, no such deduction shall be allowed unless the assessee furnishes with the return of income, a certificate in such form, as may be prescribed, from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed, working in a Government hospital. It further provides that the deduction under the said section shall be reduced by the amount received, if any, under an insurance from an insurer, or reimbursed by an employer, for the medical treatment of the person referred to in clause (a) or clause (b) of the new proposed section.

It is also proposed to define the expressions "dependant", "Government hospital", "insurer" and "senior citizen" used in the new section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 33 seeks to amend section 80-1A of the Income-tax Act relating to deductions in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc.

Under the existing provision contained in sub-section (2), an assessee may claim deductions specified under sub-section (1) for any ten consecutive assessment years out of fifteen years beginning from the year in which the undertaking or enterprise develops or develops and operates or maintains and operates a special economic zone referred to in clause (iii) of sub-section (4) of the said section.

Sub-clause (i) seeks to substitute the expression "or develops or develops and operates or maintains and operates a special economic zone", by "or develops a special economic zone".

This amendment will take effect retrospectively from 1st April, 2002 and will, accordingly, apply in relation to the assessment year 2002-2003 and subsequent years.

Sub-clause (ii)(a) seeks to amend clause (ii) of sub-section (4) of the said section with a view to extending the time-limit before which the eligible undertaking has to start providing telecommunication services, etc., from 31st March, 2003 to 31st March, 2004.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Sub-clause (ii)(b) seeks to amend clause (iii) of sub-section (4) of the said section so as to provide that where an undertaking develops a special economic zone on or after 1st April, 2001 and transfers the operation and maintenance to another undertaking (transferee undertaking), the deduction to the transferee undertaking shall be available for the remaining period in the ten consecutive assessment years, as if the operation and maintenance were not so transferred to the transferee undertaking.

This amendment will take effect retrospectively from 1st April, 2002 and will, accodingly apply in relation to the assessment year 2002-2003 and subsequent years.

Clause 34 seeks to amend section 80-IB of the Income-tax Act relating to deduction in respect of profits and gains from certain industrial undertakings other than infrastructure development undertakings.

It is proposed to insert a proviso in sub-section (4) of the said section so as to provide that no deduction under that sub-section shall be allowed for the assessment year beginning on the 1st day of April, 2004 or any subsequent year to any undertaking or enterprise referred to in sub-section (2) of section 80-IC proposed to be inserted by clause 35 of the Bill.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Under the existing provision contained in sub-section (8A) of the said section, any company carrying on scientific research and development is allowed deduction under that sub-section if such company has, *inter alia,* been approved before 1st April, 2003.

It is proposed to extend the said time limit up to 31st March, 2004 for obtaining the approval.

Under the existing provision contained in sub-section (10), hundred per cent, deduction of the profits of an undertaking developing and building housing projects is allowed if the housing project is approved by a local authority before 31st March, 2001 and completed before 31st March, 2003.

It is proposed to extend the time limit for obtaining approval from the local authority upto 31st March, 2005 and remove the time limit for completing the project.

Under the existing provision contained in sub-section (11), an industrial undertaking deriving profits from the business of setting up and operating a cold chain facility for agricultural produce is allowed deduction under that sub-section if such undertaking begins to operate such facility before 31st March, 2003. It is proposed to extend the said time limit upto 31st March, 2004.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 35 seeks to insert a new section 80-IC in the Income-tax Act relating to special provisions in respect of certain undertakings or enterprises in certain special category States.

The proposed sub-section (1) provides that where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in the proposed sub-section (2), there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains, specified in the proposed sub-section (3).

The proposed sub-section (2) specifies the undertakings or enterprises which shall be eligible for the deduction under the proposed new section. The undertakings or the enterprises which carry on the business specified in that section in the States of Sikkim, Uttaranchal, Himachal Pradesh and the North-Eastern States shall be eligible for deduction in accordance with the provisions contained in the said section.

The proposed sub-section (3) specifies the amount of deduction which shall be eligible to the undertakings or enterprises.

The proposed sub-section (4) specifies the conditions to be fulfilled by the undertakings or enterprises for the purpose of deduction under the proposed new section.

The proposed sub-section (5) provides that in computing the total income of the assessee, notwithstanding anything contained in any other provision of the Income-tax Act, no deduction shall be allowed under any other section contained in Chapter VIA or in section 10A or section 10B of that Act, in relation to the profits and gains of the undertaking or enterprise.

The proposed sub-section (6) provides that no deduction shall be allowed to any undertaking or enterprise under this section, notwithstanding anything contained in the Income-tax Act, where the total period of deduction inclusive of the period of deduction under this section, or under the second proviso to sub-section (4) of section 80-IB or under section 10C of that Act, as the case may be, exceeds ten assessment years.

The proposed sub-section (7) provides that the provisions contained in sub-section (5) and sub-sections (7) to (12) of section 80-IA of the Income-tax Act shall, so far as may be, apply to the eligible undertaking or enterprise under this section.

The proposed sub-section (8) defines the expressions "initial assessment year", "Integrated infrastructure Development Centre", "Industrial Growth Centre", industrial Park", "Industrial area", "Industrial Estate", "North-Eastern States", "Software Technology Park," "Substantial Expansion" and "Theme Park" used in the proposed new section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 36 seeks to amend section 80L of the Income-tax Act relating to deductions in respect of interest on certain securities, dividends, etc.

It is proposed to omit clauses (iv), (v) and (va) of sub-section (1) of the said section. The proposed amendments is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

It is proposed to amend clauses (1) and (2) of sub-section (1) of the said section so as to increase the deduction allowed to an assessee in computing his total income from nine thousand rupees to twelve thousand rupees.

This amendment will take effect retrospectively from 1st April, 2003, and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

Clause 37 seeks to omit section 80M of the Income-tax Act relating to deduction in respect of certain inter-corporate dividends. The existing provisions contained in the said section allow a deduction for domestic companies which receive dividends from other domestic companies and again distribute them as dividend. The amount of deduction on

dividends received by a domestic company from another domestic company is to the extent of dividends distributed by the recipient company.

It is proposed to omit the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 38 seeks to insert a new section 80QQB in the Income-tax Act relating to deduction in respect of royalty income, etc., of authors of certain books other than text books.

The proposed sub-section (1) seeks to provide that where, in the case of an individual resident in India, being an author, the gross total income includes any income derived by him in the exercise of this profession on account of any lump-sum consideration for the assignment or grant of any of his interests in the copyright of any book being a work of literary, artistic or scientific nature, or of royalties or copyright fees (where receivable in lump sum or otherwise) in respect of such book, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such income, computed in the manner specified in the proposed sub-section (2).

The proposed sub-section (2) seeks to provide that the deduction under this section shall be equal to the whole of such income referred to in the proposed sub-section (1), or an amount of rupees three lakhs, whichever is less. However, where the income by way of such royalty or the copyright fee, is not a lump sum consideration in lieu of all rights of the assessee in the book, so much of the income, before allowing expenses attributable to such income, as is in excess of fifteen per cent of the value of such books sold during the previous year shall be ignored. It further seeks to provide that in respect of any income earned from any source outside India, so much of the income shall be taken into account for the purpose of this section as is brought into India by, or on behalf of, the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.

The proposed sub-section (3) seeks to provide that no deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form and in the prescribed manner, duly verified by any person responsible for making such payment to the assessee as referred to in the proposed sub-section (1), along with the return of income, setting forth such particulars as may be prescribed.

The proposed sub-section (4) seeks to provide that no deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form from the prescribed authority, along with the return of income in the prescribed manner.

The proposed sub-section (5) seeks to provide that where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no deduction in respect of such income shall be allowed under any other provision of the Income-tax Act in any assessment year.

It is also proposed to define the expressions "author", "books", "competent authority" and "lump sum" used in the proposed section.

This amendment will take effect from 1st April, 2004 and will accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 39 seeks to insert a new section 80RRB in the Income-tax Act relating to deduction in respect of royalty on patents.

The proposed sub-section (1) seeks to provide that where in the case of an assessee being an individual, who is resident in India and in receipt of any income by way or royalty in respect of a patent registered on or after the 1st day of April, 2003 under the Patents Act, 1970, there shall be allowed a deduction, from such income of an amount equal to the whole

of such income or three lakh rupees, whichever is less. However, where a compulsory licence is granted in respect of any patent under the Patents Act, 1970, the income by way of royalty for the purpose of allowing deduction under this section shall not exceed the amount of royalty under the terms and conditions of a licence settled by the Controller under that Act. It is further provided that in respect of any income earned from any source outside India, so much of the income, shall be taken into account for the purpose of this section, as is brought into India by, or on behalf of the assessee in convertible foreign exchange within a period of six months from the end of the previous year in which such income is earned or within such further period as the competent authority may allow in this behalf.

The proposed sub-section (2) provides that no deduction under this section shall be allowed unless the assessee furnishes a certificate in the prescribed form, duly signed by the prescribed authority, along with the return of income setting forth such particulars as may be prescribed.

The proposed sub-section (3) provides that no deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form, from the authority or authorities, as may be prescribed, along with the return of income.

The proposed sub-section (4) provides that where a deduction for any previous year has been claimed and allowed in respect of any income referred to in this section, no further deduction in respect of such income shall be allowed, under any other provision of the Income-tax Act, in any assessment year.

The proposed new section also defines the expressions "Controller", "patent", "patentee", "patent of addition", "patented article", "patented process", "royalty" and "true and first inventor" used in that section.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 40 seeks to substitute section 80U of the Income-tax Act relating to deduction in the case of permanent physical disability (including blindness).

Under the existing provision contained in the said section, an individual, being a resident, is allowed a deduction of forty thousand rupees if he, at the end of the previous year, is suffering from a permanent physical disability (including blindness) or is subject to mental retardation, being a permanent physical disability or mental retardation specified in the rules made in this behalf by the Board, which is certified by a physician, a surgeon, an oculist or a psychiatrist, as the case may be, working in a Government hospital, and which has the effect of reducing considerably such individual's capacity for normal work or engaging in a gainful employment or occupation.

It is proposed to substitute the said section by a new section to provide for deduction in the case of a person with disability.

The proposed sub-section (1) provides that in computing the total income of an individual, being a resident, who, at any time during the previous year, is certified by the medical authority to be a person with disability, there shall be allowed a deduction of a sum of fifty thousand rupees. However, where such individual is a person with severe disability, the provisions of this sub-section shall have effect as if for the words "fifty thousand rupees", the words "seventy-five thousand rupees" had been substituted.

The proposed sub-section (2) seeks to provide that every individual claiming a deduction under this section shall furnish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed. However, where the condition of disability requires reassessment of its extent after a period stipulated in the aforesaid certificate, no deduction under this section shall be allowed for any assessment year relating to any previous year beginning after the expiry of the previous

year during which the aforesaid certificate of disability had expired, unless a new certificate is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished along with the return of income under section 139.

The proposed new section also defines the expressions "disability", "medical authority", "person with disability" and "person with severe disability" used in the proposed new section.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 41 seeks to amend section 88 of the Income-tax Act relating to tax rebate on life insurance premia, contribution to provident fund, etc.

Sub-clause (a) (i) seeks to insert a new sub-clause (xivb) in sub-section (2), so as to provide for a tax rebate for any sum paid as tuition fees (excluding any payment towards any development fees or donation or payment of similar nature), whether at the time of admission of thereafter, to any university, college, school or other educational institution situated within India for the purpose of fulltime education of any two children of an assessee.

Sub-clause (a) (ii) seeks to substitute the *Explanation* under clause (xvi) of the said sub-section (2), so as to, *inter alia,* define the expression "eligible issue of capital", to mean an issue made by a public company formed and registered in India or a public financial institution and the entire proceeds of the issue are utilised wholly and exclusively for the purposes of any business referred to in sub-section (4) of section 80-IA of the Income-tax Act.

Sub-clause (b) proposes to insert a new sub-section (2A) so as to provide that the provisions of sub-section (2) shall apply only to so much of any premium or other payment made on an insurance policy other than a contract for a deferred annuity as is not in excess of twenty per cent of the actual capital sum assured.

It is also proposed to clarify by the *Explanation* in the proposed sub-section (2A) that in calculating any such actual capital sum, no account shall be taken of the value of any premiums agreed to be returned, or of any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person.

This amendment will take effect from 1st April, 2004 and will accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Sub-clause (c) seeks to insert a new clause (d) in sub-section (4) so as to provide that for the puposes of clause (xivb) the said sub-section (2), in the case of an individual, the deduction shall be with respect to any two children of such individual.

Sub-clause (d) seeks to insert a proviso after the second proviso in sub-section (5) so as to provide that where the aggregate of any sum specified in clause (xivb) of sub-section (2) exceeds an amount of twelve thousand rupees in respect of each child a deduction under sub-section (1) in respect of such sum shall be allowed with reference to so much of the aggregate as does not exceed an amount of twelve thousand rupees in respect of each such child.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Caluse 42 seeks to amend section 88B of the Income-tax Act relating to rebate of income-tax in case of individuals of sixty-five years or above.

Under the existing provision, individuals in the age group of sixty-five years or more are entitled to a deduction from the amount of income-tax on their total income in any assessment year with which they are chargeable to tax for that assessment year of an amount equal to hundered per cent of such income-tax or an amount of fifteen thousand rupees, whichever is less.

It is proposed to enhance the said limit of rebate from fifteen thousand rupees to twenty thousand rupees.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 an subsequent years.

Clause 43 seeks to amend section 90 of the income-tax Act relating to agreement with foreign countries.

The existing provisions of the said section, *inter alia,* provide that the Central Government may enter into an agreement with the Government of any country outside India for granting of relief in respect of income on which have been paid both income-tax under the Income-tax Act and income-tax in that country, or for the avoidance of double taxation of income under that Act and under the corresponding law in force in that country, etc.

It is proposed to substitute clause (a) of sub-section (1) of the said section to provide that the Central Government may enter into an agreement with the Government of any country outside India for the granting of relief, *inter alia,* in respect of income-tax chargeable under the Income-tax Act or under the corresponding law in force in that country to promote mutual economic relations, trade and investment.

It is also proposed to insert a new sub-section (3) to provide that where the Central Government has entered into an agreement with the Government of any country outside India under sub-section (1), the term used but not defined in the Income-tax Act or in the agreement shall, unless the context otherwise requires and not being inconsistent with the provisions of that Act or the agreement, have the same meaning as assigned to it in the notification issued by the Central Government in the Official Gazette in this behalf.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 44 seeks to amend section 115A of the Income-tax Act relating to tax on dividends, royalty and technical service fees in the case of foreign companies.

It is proposed to exclude dividends referred to in section 115-O from the purview of section 115A. The proposed amendment is of consequential nature.

The existing provisions of clause (b) of sub-section (1) of the said section provide for rates at which income-tax shall be payable where the total income of a foreign company includes any income by way of royalty of fees for technial services received from Government of an Indian concern in pursuance of an agreement made by the foreign company with Government or the Indian concern after 31st March, 1976, and where such agreement is with an Indian concern, the agreement is approved by the Central Government or where it relates to a matter included in the industrial policy, for the time being in force, of the Government of India, the agreement is in accordance with that policy.

It is proposed to amend clause (b) of sub-section (1) of the aforesaid section to make it applicable to a non-resident (not being a company) or to a foreign company and income by way of royalty or fees for technical services other than income referred to in sub-section (1) of section 44DA.

These amendments will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Caluse 45 seeks to amend section 115AC of the Income-tax Act relating to tax on income from bonds or Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

It is proposed to exclude dividends referred to in section 115-O from the purview of section 115AC. The proposed amendment in consequential to the substitution of sub-section (1) of the said section 115-O.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 46 seeks to amend section 115ACA of the income-tax Act relating to tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer.

The proposed amendment seeks to exclude dividends referred to in section 115-O from the purview of section 115ACA. The proposed amendment is consequential to the insertion of the said section 115-O.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 47 seeks to amend section 115AD of the Income-tax Act relating to tax on income of Foreign Institutional Investors from securities or capital gains arising from their transfer.

It is proposed to exclude dividends referred to in section 115-O from the purview of the said section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 48 seeks to amend to section 115C of the Income-tax Act relating to definitions in case of special provisions relating to certain incomes of non-residents.

It is proposed to exclude dividends referred to in section 115-O from the purview of the said section 115C. The proposed amendment is of consequential nature.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Caluse 49 seeks to amend section 115-O of the Income-tax Act relating to tax on distributed profits of domestic companies.

Under the existing provision contained in sub-section (1) of the said section, a domestic company is liable to pay tax on distributed profits. The tax so paid by the company is treated as the final payment of tax in respect of the amount declared, distributed or paid by way of dividend on or after 1st June, 1997 but no or before 31st March, 2002.

It is proposed to substitute the said sub-section so as to make the provisions of this section applicable in respect of the profits (whether current or accumulated profits) distributed by domestic companies on or after 1st April, 2003. Such profits shall be charged at the rate of twelve and one-half per cent.

This amendment will take effect from 1st April, 2003 and will, accordingly, apply in relation to amounts declared, distributed or paid by way of dividends on or after 1st April, 2003.

Clause 50 seeks to amend section 115R of the Income-tax Act relating to tax on distributed income to unit holders.

The proposed amendment seeks to substitute sub-section (2) of the said section to provide that notwithstanding anything contained in any other provisions of the Income-tax Act, any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income at the rate of twelve and one-half per cent. It is also proposed to provide that no additional tax shall be levied in respect of any income distributed, by the Administrator of the specified undertaking to the unit holders, or to the unit holders of open-ended equity oriented funds in respect of any distribution made from such funds for a period of one year commencing from 1st April, 2003.

It is also proposed to define the expressions "Administrator" and "specified company" used in the said sub-section.

These amendments will take effect from 1st April, 2003 and will, accordingly, apply in relation to the income distributed on or after 1st April, 2003.

Clause 51 seeks to amend section 115S of the Income-tax Act relating to interest payable for non-payment of tax.

It is proposed to amend the said section so as to apply the provisions of that section to the specified company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 instead of Unit Trust of India.

This amendment will take effect from 1st April, 2003.

Clause 52 seeks to amend section 115T of the Income-tax Act providing that Unit Trust of India or Mutual Fund to be an assessee in default.

It is proposed to amend the said section so as to apply the provisions of that section to the specified company as referred to in clause (h) of section 2 of the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 instead of Unit Trust of India.

This amendment will take effect from 1st April, 2003.

Clause 53 seeks to amend section 132 of the Income-tax Act relating to search and seizure.

The existing provision of clause (iii) of sub-section (1) of section 132 provide for seizure of any books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of search.

It is proposed to insert a proviso to the said clause so as to provide that bullion, jewellery or other valuable article or thing being stock-in-trade of the business found as a result of search shall not be seized but the authorised officer shall make a note or inventory of such stock-in-trade of the business.

The existing provision contained in the second proviso to sub-section (1) of section 132 provides that where it is not possible or practicable to take physical possession of any valuable article or thing and remove it to a safe place due to its volume, weight or other physical characteristics or due to its being of a dangerous nature, the same could be placed under deemed seizure, whereby the Authorised Officer may serve an order on the owner or the person in immediate possession that he shall not remove, or part with it except with the previous permission of the Authorised Officer.

It is also proposed to insert a proviso after the second proviso to sub-section (1) of the aforesaid section so as to provide that nothing contained in the second proviso shall apply in case of any valuable article or thing, being stock-in-trade of the business.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after the 31st May, 2003. It is proposed to give reference of new section 153A in sub-section (8) of the said section 132. The proposed amendment is of consequential nature.

These amendments will take effect from 1st June, 2003.

Clause 54 seeks to amend section 132B of the Income-tax Act relating to application of seized or requisitioned assets.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 132B. The proposed amendment is of consequential nature.

The existing provision contained in the first proviso to clause (i) of sub-section (1) of the said section provides for release of any asset seized during search under section 132 or requisitioned under section 132A, if the nature and source of acquisition of such asset is explained to the satisfaction of the Assessing Officer, after recovery therefrom of any existing tax liability, and after taking approval of the Chief Commissioner or Commissioner.

It is proposed to amend the said proviso so as to provide that the asset referred to in the first proviso shall be released, *inter alia,* if the concerned person makes an application to the Assessing Officer within thirty days from the end of the month in which the asset was seized.

These amendments will take effect from 1st June, 2003.

Clause 55 seeks to amend section 133A of the Income-tax Act relating to power of survey.

Under the existing provision contained in clause (b) of the proviso to sub-section (3) of section133A, an income-tax authority acting under this section may retain in his custody any books of account or other documents inspected by him after recording his reasons for doing so for a period of fifteen days without obtaining the approval of the Chief Commissioner or Director General or Commissioner or Director, as the case may be.

It is proposed to substitute the said sub-clause (b) so as to provide that an income-tax authority acting under this section may retain in his custody any such books of account or other documents only for a period of ten days (exclusive of holidays) without obtaining the approval of the Chief Commissioner or Director General therefor, as the case may be.

It is further proposed to insert a proviso after sub-section (6) of the said section and before the *Explanation* so as to provide that no action under sub-section (1) of the said section shall be taken by an Assistant Director or a Deputy Director or an Assessing Officer or a Tax Recovery Officer or an Inspector of Income-tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.

Under the existing provision contained in the *Explanation* below sub-section (6) of the said section, the term "income-tax authority" has been defined so as to include a Commissioner, a Joint Commissioner, a Director, a Joint Director, an Assistant Director or a Deputy Director or an Assessing Officer, and for the purpose of certain specified clauses, and if authorised by such authorities, to include an Inspector of Income-tax.

It is also proposed to amend the definition of the expression "income-tax authority" in clause (a) of the *Explanation* to the section to include "Tax Recovery Officer".

These amendments will take effect from 1st June, 2003.

Clause 56 seeks to amend section 139 of the Income-tax Act relating to return of income.

Under the existing provision contained in sub-section (1) of the said section, every company whether it has income or loss and every person other than a company, if the total income in respect of which he is assessable under the Income-tax Act during the previous year exceeded the maximum amount not chargeable to income-tax, is required to furnish a return of such income on or before the due date in the prescribed form and manner.

It is proposed to insert a new sub-section (1B), after sub-section (1A) of the said section, so as to provide that any person, who is required to furnish a return of income under sub-section (1), may, at his option, on or before the due date furnish a return of his income for any previous year in accordance with such scheme as may be specified by the Board in this behalf by notification in the Official Gazettte and subject to such conditions as may be specified therein, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media), and in the manner as may be specified in that scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section (1) of section 139, and the provisions of the income-tax Act shall apply accordingly.

This amendment will take effect retrospectively from 1st April, 2003 and will, accordingly, apply in relation to the assessment year 2003-2004 and subsequent years.

Clause 57 seeks to amend section 140A of the Income-tax Act relating to self-assessment.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 140A. The proposal amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 58 seeks to amend section 143 of the Income-tax Act relating to assessment.

Under the existing provision contained in clause (i) of sub-section (2) of section 143, where a return has been furnished under section 139, or in response to a notice under sub-section (1) of section 142, the Assessing Officer shall, where he has reason to believe that any claim of loss, exemption, deduction, allowance or relief made in the return is inadmissible, serve on the assessee a notice specifying particulars of such claim of loss, exemption, deduction, allowance or relief and require him, on a date to be specified therein to produce, or clause to be produced, any evidence or particulars specified therein or on which the assessee may rely, in support of such claim. Thereafter, the Assessing Officer under clause (i) of sub section (3), after hearing such evidence and after taking into account such particulars as the assessee may produce, by order in writing, allows or rejects the claim or claims specified in such notice and makes an assessment determining the total income or loss accordingly and determines the sum payable by the assessee on the basis of such assessment.

It is proposed to insert a proviso in clause (i) of sub-section (2) of the said section so as to provide that no notice under clause (i) of the said sub-section shall be served on the assessee on for after 1st June, 2003.

It is also proposed to amend the proviso below clause (ii) of the aforesaid sub-section (2), so as to substitute for the words "no notice under this sub-section", the words "no notice under clause (ii)". The proposed amendment is of consequential nature.

These amendments will take effect from 1st June, 2003.

Clause 59 seeks to insert new sections 153A, 153B and 153C in the Income-tax Act relating to assessment in case of search or requisition made after 31st May, 2003, specifying time-limit for completion of assessment or reassessment of income and assessment of income of any other person in certain cases.

The proposed new section 153A provides that in the case of a person where a search is initiated under section 132 or books of account, other documents or any assets are requisitioned under section 132A after the 31st day of May, 2003, the Assessing Officer shall, notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, issue notices to such person requiring him to furnish within such period as may be specified in the notice the return of income in respect of each assessment year falling within six assessment years referred to in clause (b) of section 153A, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed and the provisions of the Income-tax Act shall, so far as may be, apply accordingly as if such return were a return required to be furnished under section 139. The Assessing Officer shall assess or reassess the total income of six assessment years immediately preceding the previous year during which such search is conducted or requisition is made and such assessment or reassessment shall be made in respect of each assessment year falling within six assessment years. This clause also provides that the assessment or reassessment, if any, relating to any assessment year falling within the period of six assessment years referred to in this section, pending on the date of the initiation of the search under section 132 or requisition under section 132A, as the case may be, shall abate.

This clause also provides that save as otherwise provided in section 153A, section 153B and section 153C, all other provisions of the Income-tax Act shall apply to the assessment or reassessment made under this section and in the assessment or reassessment made in respect of an assessment year under this section, the tax shall be chargeable at the rate or rates as applicable to such assessment year.

The proposed sub-section (1) of the new section 153B provides for the time limit for completion of assessment in case of a person where a search is initiated under section 132 or books of account, other documents or assets are requisitioned under section 132A. It provides that the Assessing Officer shall make an order of assessment or reassessment in respect of each assessment year falling within six assessment years referred to in clause ((b) of section 153A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed. The Assessing Officer shall make an order of assessment or reassessment in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A, within a period of two years from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed. This clause also provides that in computing the period of limitation for the purposes of its section, the period during which the assessment proceeding is stayed by an order or injunction of any court; or the period commencing from the day on which the Assessing Officer directs the assessee to get his accounts audited under sub-section(2A) of section 142 and ending on the day on which the assessee is required to furnish a report of such audit under that sub-section, or the time taken in reopening the whole or any part of the proceeding or giving an opportunity to the assessee of being re-heard under the proviso to section 129, or in a case where an application made before the Settlement Commission under section 245C is rejected by it or is not allowed to be proceeded with by it, the period commencing on the date on which such applications is made and ending with the date on which the order under sub-section (I) of section 245D is received by the Commissioner under sub-section (2) of that section, shall be excluded. This clause also provides that where immediately after the exclusion of the aforesaid period, the period of limitation available to the Assessing Officer for making an order of assessment or reassessment, as the case may be, is less than sixty days, such remaining period shall be extended to sixty days and the period of limitation shall be deemed to be extended accordingly.

The proposed sub-section (2) seeks to provide that the authorisation referred to in clause (a) and clause (b) shall be deemed to have been executed in the case of search, on the conclusion of search as recorded in the last panchanama drawn in relation to any person in whose case the warrant of authorisation has been issued and in the case of requisition made under section 132A, on the actual receipt of the books of account or other documents or assets by the Authorised Officer.

The proposed new section 153C provides for assessment or reassessment of income of any other person. Where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belong or belongs to a person other than the person referred to in section 153A, then the books of account, or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

These amendments will take effect from1st June, 2003.

Clause 60 seeks to amend section 155 of the Income-tax Act relating to other amendments.

It is proposed to insert a new sub-section (16) in the said section so as to provide that where in the assessment for any year, a capital gain arising from the transfer of a capital asset, being a transfer by way of compulsory acquisition under any law, or a transfer, the consideration for which was determined or approved by the Central Government or the Reserve Bank of India, is computed by taking the compensation or consideration first received as referred to in clause (a), or enhanced or further enhanced compensation or consideration received as referred to in clause (b), as the case may be, of sub-section (5) of section 45, to be the full value of consideration and subsequently such compensation or consideration is reduced in any appeal or revision or reference by any court, Tribunal or other authority, then, the Assessing Officer shall amend the order of assessment to revise the computation of said capital gain of that year by taking the compensation or consideration so reduced by the court, Tribunal or other authority to be the full value of consideration.

It is also proposed to insert a new sub-section (17) in the said section so as to provide that where a deduction has been allowed to an assessee in any assessment year under section 80RRB in respect of any patent, and subsequently by an order of the Controller or the High Court under the Patents Act, 1970, the patent was revoked, or the name of the assessee was excluded from the patents register as patentee in respect of that patent, the deduction from the income by way of royalty attributable to the period during which the patent had been revoked or for which the assessee's name was excluded as patentee in respect of that patent, shall be deemed to have been wrongly allowed and the Assessing Officer shall recompute the income in the manner provided in that sub-section.

These amendments will take effect from1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 61 seeks to insert a new section 158BI in the Income-tax Act to provide for inapplicability of the provisions of Chapter XIV-B providing for special procedure for assessment of search cases.

It is proposed to insert three new sections 153A, 153B and 153C (*vide* clause 59) in the Income-tax Act to provide for assessment in case of search or making requisition.

It is proposed to provide that the provisions of this Chapter shall not apply where a search is initiated under section 132, or books of account, other documents or any assets are requisitioned under section 132A after 31st May, 2003.

This amendment will take effect from 1st June, 2003.

Clause 62 seeks to amend section 163 of the Income-tax Act, relating to as to who may be regarded as agent.

Under the existing provision "agent" in relation to a non-resident includes any person in India who has any business connection with the non-resident.

It is proposed to insert an *Explanation* in sub-section (1) of the said section to provide that for the purposes of this sub-section, the expression "business connection" shall have the same meaning as assigned to it in *Explanation* 2 to clause (i) of sub-section (1) of section 9 of the Income-tax Act. The proposed amendment is of consequential nature.

This amendment will take effect from1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 63 seeks to amend section 184 of the Income-tax Act relating to assessment as a firm.

Under the existing provision contained in sub-section(5) of the said section, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall not be assessed as such for the said assessment year and, thereupon, the firm shall be assessed in the same manner as an association of persons, and all the provisions of the Income-tax Act shall apply accordingly.

It is proposed to substitute the said sub-section (5) so as to provide that notwithstanding anything contained in any other provision of the Income-tax Act, where, in respect of any assessment year, there is on the part of a firm any such failure as is mentioned in section 144, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession". However, such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28 of the Income-tax Act.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 64 seeks to amend section 185 of the Income-tax Act relating to assessment of a firm when section 184 has not been complied with.

Under the existing provision of the said section where, a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be assessed for that assessment year in the same manner as an association of persons, and all the provisions of the Income-tax Act shall apply accordingly.

It is proposed to substitute the said section so as to provide that notwithstanding anything contained in any other provision of the Income-tax Act, where a firm does not comply with the provisions of section 184 for any assessment year, the firm shall be so assessed that no deduction by way of any payment of interest, salary, bonus, commission or remuneration, by whatever name called, made by such firm to any partner of such firm shall be allowed in computing the income chargeable under the head "Profits and gains of business or profession". However, such interest, salary, bonus, commission or remuneration shall not be chargeable to income-tax under clause (v) of section 28 of the Income-tax Act.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 65 seeks to amend section 191 of the Income-tax Act relating to direct payment of income-tax.

Under the existing provision contained in section 191, in the case of income in respect of which provision is not made under the provisions of Chapter XVII of the Income-tax Act for deducting income-tax at the time of payment, and in any case where income-tax has not been deducted in accordance with the provisions of the said Chapter, income-tax shall be payable by the assessee direct.

It is proposed to clarify that if any person referred to in section 200 and in the cases referred to in section 194, the principal officer and the company of which he is the principal officer does not deduct the whole or any part of the tax and such tax has not been paid by the assessee direct, then such person, the principal officer and the company shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default as referred to in sub-section(1) of section 201 in respect of such tax.

This amendment will take effect from 1st June, 2003.

Clause 66 seeks to amend section 193 of the Income-tax Act relating to tax deduction at source from payments by way of interest on securities.

Under the existing provision contained in the said section, the person responsible for paying any income by way of interest on securities is required to deduct tax at source at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or a draft or any other mode at the rates in force.

It is proposed to provide that the person responsible for deducting tax shall be required to do so in the case of payment by way of interest on securities made to residents only.

This amendment will take effect from 1st June, 2003.

Clause 67 seeks to amend section 194 of the Income-tax Act relating to deduction of tax at source from dividends.

Under the existing provisions contained in the said section, no tax is required to be deducted at source by a company in the case of a shareholder, being an individual, if the dividend is paid by the company by an account payee cheque and the amount of the dividend or, as the case may be, the aggregate of the amounts of the dividend distributed or paid or likely to be distributed or paid during the financial year does not exceed one thousand rupees.

The proposed amendment seeks to amend the first proviso in the said section so as to provide that no deduction of tax at source shall be made under this section where the amount of dividend or the aggregate of the amounts of the dividend does not exceed two thousand five hundred rupees.

This amendment will take effect retrospectively from 1st August, 2002.

It is also proposed to insert a new proviso after the second proviso to the said section so as to provide that no such deduction shall be made in respect of any dividends referred to in section 115-O. The proposed amendment is of consequential nature.

This amendment will take effect retrospectively from 1st April, 2003.

Clause 68 seeks to amend section 194C of the Income-tax Act relating to deduction of tax at source from payments to contractors and sub-contractors.

Under the existing provision contained in sub-section (4) of the said section, where the Assessing Officer is satisfied that the total income of the contractor or the sub-contractor justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the contractor or the sub-contractor in this behalf, give to him such certificate as may be appropriate. Sub-section (5) of the said section provides that where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) or sub-section (2) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rates specified in such certificate or deduct no tax, as the case may be.

The proposed amendment seeks to omit sub-sections (4) and (5) of the aforesaid section.

The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 69 seeks to amend section 194G of the Income-tax Act relating to deduction of tax at source from commission, etc., on the sale of lottery tickets.

Under the existing provision contained in sub-section (2) of the said section, where the Assessing Officer is satisfied that the total income of any person who is or has been stocking, distributing, purchasing or selling lottery tickets justifies the deduction of income-tax at any lower rate or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by such person in this behalf, give to him such certificate as may be appropriate. Sub-section (3) of the said section provides that where any such certificate is given, the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rate specified in such certificate or deduct no tax, as the case may be.

The proposed amendment seeks to omit sub-sections (2) and (3) of the aforesaid section.

The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 70 seeks to amend section 194-I of the Income-tax Act relating to tax deduction at source from payment by way of rent.

Under the existing provisions contained in the said section, any person who is responsible for paying to any person any income by way of rent is required to deduct tax at source at the specified rates.

It is proposed to provide that the person responsible for deducting tax shall be required to do so in the case of payment by way of rent made to residents only.

This amendment will take effect from 1st June, 2003.

Clause 71 seeks to amend section 194J of the Income-tax Act relating to deduction of tax at source from fees for professional or technical services.

Under the existing provision contained in the second proviso to sub-section (1) of the said section, an individual or a Hindu undivided family, whose total sales, gross receipts or turnover from the business or profession carried on by him exceed the monetary limits specified under clause (a) or clause (b) of section 44AB of the Income-tax Act during the financial year immediately preceding the financial year in which such sum by way of fees for professional or technical services is credited or paid shall be liable to deduct income-tax under this sub-section.

It is proposed to insert a new proviso after the second proviso to the said sub-section so as to provide that no individual or Hindu undivided family referred to in the second proviso shall be liable to deduct income-tax on the sum by way of fees for professional services in case such sum is credited or paid exclusively for personal purposes.

Under the existing provision contained in sub-section (2) of the said section, where the Assessing Officer is satisfied that the total income of any person in receipt of the sum by way of fees for professional services or fees for technical services justifies the deduction of income-tax at any lower rate or no deduction of Income-tax, as the case may be, the Assessing Officer shall, on an application made by that person in this behalf, give to him such certificate as may be appropriate. Sub-section (3) of the said section provides that where any such cetificate is given the person responsible for paying the sum referred to in sub-section (1) shall, until such certificate is cancelled by the Assessing Officer, deduct income-tax at the rate specified in such cetificate or deduct on tax, as the case may be.

The proposed amendment seeks to omit sub-sections(2) and (3) of the said section.

The proposed amendment is of consequential nature.

These amendments will take effect from 1st June, 2003.

Clause 72 seeks to amend section 194K of the Income-tax Act relating to deduction of tax at source from income in respect of units.

Under the existing provision contained in the said section, no tax is required to be deducted at source by the person responsible for making the payment of any income in respect of units of a Mutual Fund specified under clause (23D) of section 10 or of the Unit Trust of India to the account of, or to, the payee where the amount of such income or, as the case may be, the aggregate of the amounts of such income credited or paid or likely to be credited or paid during the financial year does not exceed one thousand rupees.

It is proposed to amend the first proviso in the said section so as to provide that no deduction of tax at source shall be made under this section where the amount of the income or the aggregate of the amounts of such income does not exceed two thousand five hundred rupees.

This amendment will take effect retrospectively from 1st August, 2002.

It is also proposed to insert a new proviso after the second proviso in the said section so as to provide that no deduction shall be made under this section from any such income credited or paid on or after 1st April, 2003.

This amendment will take effect retrospectively from 1st April, 2003.

Clause 73 seeks to amend section 195 of the Income-tax Act relating to deduction of tax at source from payments of other sums as mentioned in the said section. The provision contained in the said section provides that any person responsible for paying to a non-resident, not being a company, or to a foreign company, any interest (not being interest on securities) or any other sum chargeable under the provisions of the Income-tax Act (not being income chargeable under the head "Salaries") is required to deduct tax at source at the rates in force.

It is proposed to expand the scope of the said section so as to include payments made by way of interest on securities.

This amendment will take effect from 1st June, 2003.

It is also proposed to insert a new proviso after the proviso in sub-section (1) of the said section so as to provide that no tax shall be deducted from any dividends declared, distributed or paid by a domestic company on or after 1st April, 2003. The proposed amendment is of consequential nature.

This amendment will take effect retrospectively from 1st April, 2003.

Clause 74 seeks to amend section 196A of the Income-tax Act relating to deducation of tax at source from income in respect of units of non-residents.

The proposed amendment seeks to insert a proviso in sub-section (1) of the said section so as to provide that no deduction shall be made under this section from any such income credited or paid on or after the 1st day of April, 2003. The proposed amendment is of consequential nature.

This amendment will take effect retrospectively from 1st April, 2003.

Clause 75 seeks to amend section 196C of the Income-tax Act relating to deduction of tax at source from income from foreign currency bonds or shares of an Indian company.

It is proposed to insert a proviso in the said section so as to provide that no tax shall be deducted from any dividends declared, distributed or paid by a domestic company on or after 1st April, 2003. The proposed amendment is consequential nature.

This amendment will take effect retrospectively from 1st April, 2003.

Clause 76 seeks to amend section 196D of the Income-tax Act relating to deduction of tax at source from income of Foreign Institutional Investors from securities.

It is proposed to insert a proviso in sub-section (1) of the said section so as to provide that no tax shall be deducted from any divident declared, distributed or paid by a domestic company on or after 1st april, 2003. The proposed amendment is of consequential nature.

This amendment will take effect retrospectively from 1st April, 2003.

Clause 77 seeks to amend section 197 of the Income-tax Act relating to certificate for deduction of income-tax at lower rate.

Under the existing provision contained in the said section, where, in the case of any income of any person, income-tax is required to be deducted at the time of credit or, as the case may be, at the time of payment at the rates in force under the provisions of sections 192, 193, 194A, 194D, 194H, 194-I, 194K, 194L and 195, the Assessing Officer is satisfied that the total income of the recipient justifies the deduction of income-tax at any lower rates or no deduction of income-tax, as the case may be, the Assessing Officer shall, on an application made by the assessee in this behalf, give to him such certificate as may be appropriate.

The proposed amendment seeks to include payments of any sum to contractors and sub-contractors referred to in section 194C, any income by way of commission, etc., on the sale of lottery tickets referred to in section 194G and payment of any sum by way of fees for

professional or technical services referred to in section 194J, within the scope of the said section.

It is also proposed to omit the reference of section 194L relating to payment of compensation on acquisition of capital asset in section 197. The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 78 seeks to amend section 197A of the Income-tax Act which provides that no deduction of tax at source is to be made in certain cases.

Under the existing provision contained in section 197A, no tax is deducted at source if an individual, who is resident in India, furnishes a declaration that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*. Sub-section (1B) of the aforesaid section provides that the provisions of section 197A shall not apply where the amount of any income referred to in sub-section (1) or sub-section (1A) of that section or the aggregate of the amounts of such incomes credited or paid or likely to be credited or paid during the previous year in which such income is to be included exceeds the maximum amount which is not chargeable to income-tax.

It is proposed to insert a new sub-section (1C) in the said section to provide that no deduction of tax shall be made under section 193 or section 194 or section 194A or section 194EE or section 194K in the case of an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred to in section 88B, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 193 or section 194 or section 194A or section 194EE or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*.".

This amendment will take effect from 1st June, 2003.

Clause 79 seeks to amend section 206 of the Income-tax Act relating to persons deducting tax to furnish prescribed returns.

Under the existing provision contained in sub-section (1) of the said section, the prescribed person in the case of every office of Government, the principal officer in the case of every company, the prescribed person in the case of every local authority or other public body or association, every private employer and every other person responsible for deducting tax is required to prepare and deliver or cause to be delivered to the prescribed income-tax authority, such returns in such form and verified in such manner and setting forth such particulars as may be prescribed within the prescribed time after the end of each financial year. Sub-section (2) of the said section provides that the returns of tax deducted at source may be filed on computer readable media such as floppies, diskettes, magnetic cartridge tapes, etc., as may be specified by the Board and that the information in such returns shall be admitted in evidence in any proceeding under the Income-tax Act. Sub-section (3) of the said section provides that the return will be checked and authenticated by the Assessing Officer and that he shall take due care to preserve the computer media by duplicating, transferring, mastering or storage without loss of data.

The proposed amendment seeks to substitute sub-sections (2) and (3) of the said section. The proposed sub-section (2) seeks to provide that the person responsible for deducting tax under the provisions of Chapter XVII-B of the Income-tax Act, other than the principal officer in the case of every company may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified by the Board in this behalf, by notification in the Official Gazette, and subject to such conditions as may be specified therein, on or before the prescribed time after the end of each financial year, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any

other computer media and in the manner as may be specified in that scheme. The proposed proviso to the said sub-section provides that the principal officer in the case of every company responsible for deducting tax shall deliver or cause to be delivered within the prescribed time after the end of each financial year, such returns on computer media under the said scheme.

The proposed sub-section (3) seeks to provide that a return filed on computer media shall be deemed to be a return for the purposes of this section and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof of production of the original, as evidence of any contents of the original or of any fact stated therein.

The proposed sub-section (4) seeks to provide that where the Assessing Officer considers that the return delivered or caused to be delivered under sub-section (2) is defective, he may intimate the defect to the person responsible for deducting tax or the principal officer in the case of company, as the case may be, and give him an opportunity of rectifying the defect within a period of fifteen days from the date of such intimation or within such further period which, on an application made in this behalf, the Assessing Officer may, in his discretion, allow; and if the defect is not rectified within the said period of fifteen days or, as the case may be, the further period so allowed, then, notwithstanding anything contained in any other provision of the income-tax Act, such return shall be treated as an invalid return and the provisions of the Act shall apply as if such person had failed to deliver the return.

This amendment will take effect from 1st June, 2003.

Clause 80 seeks to amend section 206C of the Income-Tax Act relating to profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

Sub-clause (a) seeks to substitute the Table in sub-section (1) of the said section *inter-alia*, to provide for collection of tax at source at the rate of ten per cent. in the case of Indian made foreign liquor and scrap.

Under the existing provision contained in the *Explanation* below sub-section (11), the "buyer" does not, *inter-alia,* include a buyer where the goods are not obtained by him by way of auction and where the sale prices of such goods to be sold by the buyer is fixed by or under any State Act.

Sub-clause (b) seeks to amend the said *Explanation* so as to make the provisions of the section applicable in the case of a buyer where the goods are not obtained by him by way of auction and where the sale prices of such goods to be sold by the buyer is fixed by or under any State Act.

These amendments will take effect from 1st June, 2003.

Clause 81 seeks to amend section 230 of the Income-tax Act relating to tax-clearance certificate.

It is proposed to substitute sub-section (1) of the said section by two new sub-sections (1) and (1A).

The proposed new sub-section (1) provides that no person, subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, who is not domiciled in India and who has come to India in connection with business, profession or employment; and who has income derived from any source in India, shall leave the territory of India by land, sea or air unless he furnishes to the authority as may be prescribed an undertaking in the prescribed form from his employer or through whom such person is in receipt of the income, to the effect that tax payable by such person who is not domiciled in India shall be paid by the employer or the person through whom any income is received and the prescribed authority shall, on receipt of the undertaking, immediately give to such person a no-objection certificate, for leaving India. However, the provisions contained in sub-section (1) shall not apply to a person who is not domiciled in India but visits India as a foreign tourist or for any other purpose not connected with business, profession or employment.

The proposed new sub-section (1A) provides that every person, subject to such exceptions as the Central Government may, by notification in the Official Gazette, specify in this behalf, who is domiciled in India at the time of his departure, shall furnish, to the income-tax authority or such other authority as may be prescribed his permanent account number allotted to him under section 139A, the purpose of his visit and the estimated period of his stay outside India. In case no such permanent account number has been allotted to him, or his total income is not chargeable to income-tax or he is not required to obtain a permanent account number under the Income-tax Act, a certificate in the prescribed form shall be furnished to the income-tax authority or such other authority, as may be prescribed.

However, no person, who is domiciled in India at the time of his departure and in respect of whom circumstances exist which, in the opinion of an income-tax authority render it necessary for him to obtain a certificate under this section, shall leave the territory of India by land, sea or air unless he obtains a certificate from the income-tax authority stating that he has no liabilities under the income-tax Act, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 or the Expenditure-tax Act, 1987, or that satisfactory arrangements have been made for the payment of all or any of such taxes which are or may become payable by that person.

However, no income-tax authority shall make it necessary for any person who is domiciled in India to obtain a certificate under this section unless he records the reasons therefor and obtains the prior approval of the Chief Commissioner of Income-tax.

This amendment will take effect from 1st June, 2003.

Clause 82 seeks to amend section 234A of the Income-tax Act relating to interest for defaults in furnishing return of income.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 234A. The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 83 seeks to amend section 234B of the Income-tax Act relating to interest for defaults in payment of advance tax.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of new section 153A in the said section 234B. The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 84 seeks to insert a new section 234D in the Income-tax Act relating to interest on excess refund.

Sub-section (1) of the proposed new section provides that where any refund is granted to the assessee under sub-section (1) of section 143 and no refund is due on regular assessment, or the amount refunded under sub-section (1) of section 143 exceeds the amount refundable on regular assessment, then, the assessee shall be liable to pay simple interest at the rate of two-third per cent. on the whole or the excess amount so refunded for every month or part of a month comprised in the period from the date of grant of refund to the date of such regular assessment.

Sub-section (2) of the proposed section provides that where, as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 263 or section 264 or an order of the Settlement Commission under sub-section (4) of section 245D of the Income-tax Act, the amount of refund granted under sub-section (1) of section 143 is held to be correctly allowed, either in whole or in part, as the case may be, then the interest chargeable under sub-section (1), shall be reduced accordingly.

It is also proposed to insert an *Explanation* under new sub-section (2) so as to provide that an assessment made for the first time under section 147 or section 153A, shall be regarded as a regular assessment for the purposes of the aforesaid section.

These amendments will take effect from 1st June, 2003.

Clause 85 seeks to amend section 245N of the Income-tax Act relating to advance rulings.

Under the existing provision contained in sub-clause (ii) of clause (a) of the said section, the expression "advance ruling", *inter alia,* means determination of any question of law or of fact specified in the application by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with a non-resident.

It is proposed to amend the said sub-clause so as to clarify that the determination of any question of law or of fact by the Authority shall be in relation to the tax liability of a non-resident arising out of a transaction which has been undertaken or is proposed to be undertaken by a resident applicant with such non-resident and not in relation to the tax liability of the resident.

This amendment will take effect retrospectively from 1st June, 2000 and will, accordingly, apply in relation to all the advance rulings pronounced on or after such date.

It is further proposed to insert a proviso after sub-clause (iii) of clause (a) so as to provide that where an advance ruling has been pronounced before the date on which the Finance Bill, 2003, receives the assent of the President, by the Authority in respect of an application by a resident applicant referred to in sub-clause (ii) of the said clause (a) as it stood immediately before such date, such ruling shall be binding on persons specified in section 245S.

This amendment will take effect on and from the date on which the Finance Bill, 2003 receives the assent of the President.

Clause 86 seeks to amend section 246A of the Income-tax Act relating to appealable orders before Commissioner (Appeals).

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to insert a new clause (ba) in sub-section (1) of the said section 246A to provide that any assessee aggrieved by an order of assessment or reassessment under section 153A may appeal to the Commissioner (Appeals). The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 87 seeks to amend section 269T of the Income-tax Act relating to mode repayment of certain loans or deposits.

Under the existing provision contained in the said section, no branch of a banking company or a co-operative bank and no other company or co-operative society and no firm or other person shall repay any loan or deposit made with it otherwise than by an account payee cheque or account payee bank draft drawn in the name of the person who has made the loan or deposit, in cases where the amount of the loan or deposit or the aggregate of the loans or deposits held by such person is twenty thousand rupees or more.

It is proposed to amend the aforesaid section by inserting a second proviso so as to provide that the provisions of this section shall not apply in case of repayment of any loan or deposit taken or accepted from (i) Government; (ii) any banking company, post office savings bank or co-operative bank; (iii) any corporation established by a Central, State or Provincial Act; (iv) any Government company as defined in section 617 of the Companies Act, 1956; (v) such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.

This amendment will take effect retrospectively from 1st June, 2002.

Clause 88 seeks to amend section 271E of the Income-tax Act relating to penalty for failure to comply with the provisions of section 269T.

Under the existing provision contained in sub-section (1) of the said section, if person repays any deposit referred to in section 269T otherwise than in accordance with the provision of that section, he shall be liable to a penalty specified in that sub-section.

It is proposed to amend sub-section (1) of the said section so as to bring "loan" also within the scope of that section. The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 89 seeks to amend section 275 of the Income-tax Act relating to bar of limitation for imposing penalties.

Under the existing provision contained in clause (a) of sub-section (1) of the said section, no order imposing a penalty shall be passed in a case where the relevant assessment or other order is the subject matter of an appeal to the Commissioner (Appeals), or to the Appellate Tribunal after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or within six months from the end of the month in which the order of the Commissioner (Appeals), or as the case may be, the Appellate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later.

It is proposed to insert a proviso in the said clause so as to provide that in a case where the relevant assessment or other order is the subject matter of an appeal to the Commissioner (Appeals) under section 246 or section 246A of the Income-tax Act, and the Commissioner (Appeals) passes the order on or after the 1st day of June, 2003 disposing of such appeal, an order imposing penalty shall be passed before the expiry of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed or within one year from the end of the financial year in which the order of the Commssioner, (Appeals) is received by the Chief Commssioner or Commissioner, whichever is later.

Under the provision contained in clause (b) of sub-section (1) of the said section, no order imposing a penalty shall be passed in cases where the relevant assessment or other order is the subject matter of revision under section 263, after the expiry of six months from the end of the month in which the order of revision under the said section 263 is passed.

It is proposed to amend the said clause (b) to provide that in cases where the order is under revision under section 264, the order imposing penalty shall be passed within six months from the end of the month in which the revision order is passed.

These amendments will take effect from 1st June, 2003.

Clause 90 seeks to amend section 276CC of the Income-tax Act relating to failure to furnish returns of income.

It is proposed to insert a new section 153A (*vide* clause 59) relating to assessment in case of search or requisition made after 31st May, 2003. It is proposed to give reference of the proposed new section 153A in the said section 276CC. The proposed amendment is of consequential nature.

This amendment will take effect from 1st June, 2003.

Clause 91 seeks to insert a new section 285BA in the Income-tax Act relating to furnishing of annual information return.

The proposed new section seeks to provide that any assessee, who enters into any financial transaction, as may be prescribed, with any other person, shall furnish, within the prescribed time, an annual information return in such form and manner, as may be prescribed, in respect of such financial transaction entered into by him during any previous year.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Clause 92 proposes to insert the Thirteenth Schedule and the Fourteenth Schedule in the Income-tax Act. The said Schedules specify the list of activity or article or thing or operation and the States for the purposes of availing of deductions under the new proposed section 80-IC.

This amendment will take effect from 1st April, 2004 and will, accordingly, apply in relation to the assessment year 2004-2005 and subsequent years.

Wealth-tax

Clause 93 seeks to amend section 17 of the Wealth-tax Act, 1957 relating to wealth escaping assessment.

Under the existing provision, in a case where net wealth chargeable to tax has escaped assessment, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period not being less than thirty days as may be specified in the notice, a return of his net wealth in respect of which such person is assessable as on the valuation date mentioned in the notice.

It is proposed to omit the time limit of not less than thirty days for furnishing the return.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to notices issued on or after 1st April, 1989.

Gift-tax

Clause 94 seeks to amend section 16 of the Gift-tax Act, 1958 relating to gift escaping assessment.

Under the existing provision, in a case where taxable gifts, in respect of which any person is assessable under the said Act, (whether made by him or by any other person) have escaped assessment, the Assessing Officer shall serve on the assessee a notice requiring him to furnish within such period not less than thirty days as may be specified in the notice, a return of his taxable gifts made by him or by such other person during the previous year mentioned in the notice in respect of which he is assessable.

It is proposed to omit the time limit of not less than thirty days for furnishing the return.

This amendment will take effect retrospectively from 1st April, 1989 and will, accordingly, apply in relation to notices issued on or after 1st April, 1989.

Expenditure-tax

Clause 95 seeks to amend section 3 of the Expenditure-tax Act ,1987 relating to application of the Act.

The provisions of the Expenditure-tax Act, 1987, *inter alia,* apply to any chargeable expenditure incurred in a hotel referred to in clause (1) of section 3 of that Act.

It is proposed to amend the said clause (1) so as to provide that the provisions of the said Act shall apply to any chargeable expenditure incurred before 1st June, 2003 in a hotel.

This amendment will take effect from 1st June, 2003.

Clause 96 seeks to amend section 4 of the Expenditure-tax Act relating to charge of expenditure-tax.

Under the existing provision contained in clause (a) of the said section, the expenditure-tax at the rate of ten per cent. of the chargeable expenditure incurred in a hotel referred to in clause (1) of section 3 of the Expenditure-tax Act is charged on and from the commencement of that Act.

It is proposed to amend clause (a) of the said section so as to provide that the expenditure-tax shall not be charged on the chargeable expenditure incurred in a hotel after the 31st day of May, 2003.

This amendment will take effect from 1st June, 2003.

Customs

Clause 97 seeks to amend section 2 of the Customs Act, 1962 (hereinafter referred to as the Customs Act) so as to replace the reference to "Gold (Control)" by "Service Tax" consequent to the proposed renaming of the Customs, Excise and Gold (Control) Appellate Tribunal as the Customs, Excise and Service Tax Appellate Tribunal. This is consequential to the amendment proposed in section 129 *vide* clause 112 of the Bill.

Clause 98 seeks to amend section 7 of the Customs Act so as to empower the Central Board of Excise and Customs to appoint customs ports, land customs stations, coastal ports, airports, etc., instead of such appointment being done by the Central Government, as at present. Every notification issued under section 7 and in force immediately before the commencement of the Finance Act, 2003, is proposed to be saved until it is amended, varied, rescinded or superseded.

Clause 99 seeks to amend section 15 of the Customs Act so as to provide that the date for determination of rate of duty and tariff valuation in respect of goods cleared from a warehouse shall be the date when a bill of entry for home consumption in respect of such goods is presented under section 68 of the said Act.

Clause 100 seeks to amend section 25 of the Customs Act. Sub-clause (i) seeks to substitute sub-section (2) so as to exempt payment of duty on any goods on which duty is leviable, by special order in circumstances of an exceptional nature to be stated in such order. Sub-clause (ii) seeks to make a provision not to collect duty equal to or less than hundred rupees.

Clause 101 seeks to amend section 27 of the Customs Act so as to enable, *inter alia*, an exporter to claim refund of duty and interest paid by him, if he had not passed on the incidence of such duty and interest to any other person.

Clause 102 seeks to amend section 28 of the Customs Act so as to do away with the requirement of obtaining prior approval of the Commissioner of Customs or the Chief Commissioner of Customs, as the case may be, before issuing a notice of demand for duty.

Clause 103 seeks to amend section 28E of the Customs Act.

Sub-clause (a) seeks to amend the definition of "applicant" as given in clause (c) of section 28E so as to enable the wholly owned subsidiary Indian company, of which the holding company is a foreign company, which is proposing to undertake any business activity in India, also to make application for advance rulings.

Sub-clause (b) seeks to amend clause (h) of section 28E so as to define the terms "non-resident", "Indian company" and "foreign company" in terms of the definitions given in the Income-tax Act, 1961.

Clause 104 seeks to amend sub-section (2) of section 28H of the Customs Act so as to provide that the advance rulings may also be sought in respect of applicability of all notifications issued under the Customs Act, the Customs Tariff Act, 1975 (hereinafter referred as the Customs Tariff Act) and any duty chargeable under any other law for the time being in force in the same manner as in respect of matters already specified.

Clause 105 seeks to substitute sub-section (1) of section 30 of the Customs Act so as to provide that the person in-charge of a vessel or an aircraft or a vehicle or any other person specified by the Central Government shall deliver an import manifest or import report to the proper officer within the time-limit specified therein and if such import manifest or import report is not delivered to the proper officer within the time period and sufficient cause is not

shown for such delay, then the person in-charge or other person shall be liable to a penalty not exceeding fifty thousand rupees.

Clause 106 seeks to amend section 61 of the Customs Act extending the period for which goods may remain warehoused.

Sub-clause (a) seeks to amend sub-section (1) of section 61 so as to extend the warehousing period to three years for goods (other than capital goods) intended for use in a hundred per cent. export-oriented undertaking.

Sub-clause (b) seeks to amend sub-section (2) of section 61 so as to extend the interest free period on warehoused goods from thirty days as at present to ninety days.

Clause 107 seeks to amend section 68 of the Customs Act so as to allow the owner of any warehoused goods to relinquish his title to the goods upon payment of rents, interest, other charges and penalties, before the proper officer has made an order for clearance of such goods for home consumption.

Clause 108 of the Customs Act seeks to amend section 75A of the Customs Act so as to reduce the period from two months to one month beyond which interest is payable to the claimant, after filing of a drawback claim.

Clause 109 seeks to amend section 113 of the Customs Act relating to confiscation of goods attempted to be improperly exported.

Sub-clause (a) seeks to amend section 113 so as to extend provisions of that section to exports of non-dutiable and non-prohibited goods by omitting the words "dutiable or prohibited" occurring in the said section.

Sub-clause (b) seeks to substitute clause (i) of section 113 so as to provide that the export goods, in respect of which there is any misdeclaration with reference to value or any other material particular, shall be liable to confiscation.

Sub-clause (c) seeks to amend clause (k) of section 113 so as to extend the provisions of the said section to exports under all export promotion schemes by omitting the words "under a claim for drawback" occurring in the said clause.

Clause 110 seeks to amend section 114 of the Customs Act relating to penalty for export offences.

Sub-clause (a) seeks to amend section 114 so as to provide that in the case of offences involving attempt to export prohibited goods, the penalty shall be three times of the value of such goods as declared by the exporter or the value as determined under the said Act, whichever is the greater.

Sub-clause (b) seeks to amend section 114 so as to lay down that in the case of offences involving attempt to export goods other than prohibited or dutiable goods, the penalty shall not exceed the value of such goods as declared by the exporter or the value as determined under the said Act, whichever is the greater.

Clause 111 seeks to amend section 122 of the Customs Act relating to adjudication of confiscation and penalties. It is proposed to enhance the pecuniary limit of adjudication of the Assistant Commissioner of Customs or Deputy Commissioner of Customs in terms of value of the goods liable to confiscation from fifty thousand rupees as at present to two lakh rupees. The pecuniary limit of adjudication of a Gazetted Officer of Customs lower in rank than an Assistant Commissioner of Customs is being proposed to be raised from two thousand five hundred rupees as at present to ten thousand rupees.

Clause 112 seeks to amend section 129 of the Customs Act, *inter alia,* to rename the Customs, Excise and Gold (Control) Appellate Tribunal as the Customs, Excise and Service Tax Appellate Tribunal and to abolish the post of Senior Vice-President in the said Tribunal and other consequential matters relating thereto.

Clause 113 seeks to substitute section 130 of the Customs Act so as to provide that appeals against an order of the Appellate Tribunal (on matters other than relating to the determination of any question having a relation to the rate of duty of customs or to the value of goods for purposes of assessment) shall be filed in the High Court and the High Court will formulate the question of law after satisfying itself that substantial question of law is involved. The new provision shall apply to the orders of the Appellate Tribunal on or after the 1st day of July, 2003. An appeal under the proposed section shall be filed within one hundred and eighty days of the receipt the order appealed against by the Commissioner of Customs or the other party. The appeal by the other party shall be accompanied with a fee of two hundred rupees.

Clause 114 seeks to amend sub-section (1) of section 130A of the Customs Act so as to make changes consequent to the proposed amendment of section 130 *vide* clause 113 of the Bill.

Clause 115 seeks to amend section 130D of the Customs Act. Sub-clause (a) inserts therein sub-section (1A) to provide that effect shall be given to the judgment of the High Court in an appeal by the proper officer. Sub-clause (b) seeks to carry out certain consequential amendment in sub-section (2).

Clause 116 seeks to amend section 130E of the Customs Act which relates to appeal in Supreme Court. The amendment is a consequential amendment to the appellate jurisdiction provided to the High Court.

Clause 117 seeks to amend section 135 of the Customs Act so as to provide for prosecution in cases of misdeclaration of value of goods and of fraudulent exports.

Clause 118 seeks to amend section 136 of the Customs Act so as to provide for prosecution of officers of customs who connive at any act or thing whereby any fraudulent export is effected.

Clause 119 seeks to amend notification Nos. G.S.R. 465(E), dated the 3rd May, 1990 and G.S.R. 423(E), dated the 20th April, 1992 issued under sub-section (1) of section 25 of the Customs Act in terms of the Second Schedule. It is proposed to extend the time-limit for fulfilment of export obligations in respect of the licence holders whose units were affected by the earthquake which took place in January, 2001 in the State of Gujarat. This extension of time is subject to certain conditions and would be available beyond the 31st March, 2002 and till 31st March, 2004.

Clause 120 seeks to amend certain notifications issued under sub-section (1) of section 25 of the Customs Act relating to export promotion schemes with retrospective effect in terms of the Third Schedule to reduce the rate of interest from twenty-four per cent. to fifteen per cent.

Clause 121 seeks to levy additional duty of customs on tea and tea waste as surcharge at the rate of one rupee per kg. and also to provide that the proceeds will be for the purposes of the Union.

Customs Tariff

Clause 122 seeks to amend section 3 of the Customs Tariff Act so as to provide retrospectively *i.e.* with effect from the 1st day of march, 2002, that for computation of additional duty of customs, the value of the imported article including the landing charges and the customs duty chargeable on the said article shall be taken into account. Other duties such as anti-dumping duty, safeguard duty, etc., shall not be taken into account.

Clause 123 seeks to amend section 3A of the customs Tariff Act so as to provide retrospectively *i.e.* with effect from the 1st day of March, 2002, that for computation of special additional duty of customs, the value of the imported article including the landing charges, the customs duty chargeable on the said article, and the additional duty of customs chargeable under section 3 of the said Act shall be taken into account. Other duties such as anti-dumping duty, safeguard duty, etc., shall not be taken into account.

Clause 124 seeks to amend section 9A of the Customs Tariff Act relating to anti-dumping duty on dumped articles so as to substitute the words "territory or" occurring in item (a) of sub-clause (ii) of clause (c) of the *Explanation* in sub-section (1) of the said section by the words "territory to".

Clause 125 seeks to amend sub-section (1) of section 9C of the Customs Tariff Act so as to replace reference to "Gold (Control)" by "Service Tax" consequent to the proposed renaming of the Customs, Excise and Gold (Control) Appellate Tribunal as the Customs, Excise and Service Tax Appellate Tribunal.

Clause 126 seeks to levy a National Calamity Contingent Duty of customs on the goods specified in the Seventh Schedule to the Finance Act, 2001, as well as on the goods specified in the Thirteenth Schedule, at the rates prescribed in the respective Schedules and also to provide that the proceeds will be only for the purposes of the Union. The levy on the goods specified in the Thirteenth Schedule shall be effective only upto the 29th day of February, 2004.

Excise

Clause 127 seeks to amend section 2 of the Central Excise Act relating to definitions under the said Act.

Sub-clause (a) seeks to amend clause (aa) of section 2 so as to replace reference to "Gold (Control)" by "Service Tax" consequent to proposed renaming of Customs, Excise and Gold (Control) Appellate Tribunal as Customs, Excise and Service Tax Appellate Tribunal.

Sub-clause (b) seeks to substitute sub-clause (iii) of clause (f) of section 2 so as to provide that the packing or repacking of goods in a unit container, labelling or relabelling of container, declaration or alteration of retail sale price on the container or adoption of any other treatment to render the product marketable to the consumer, in relation to the goods specified in the Third Schedule shall amount to manufacture. The power of the Central Government to notify a process as amounting to "manufacture" as provided in clause (f) inserted by the Finance Act, 2002 is proposed to be withdrawn.

Clause 128 seeks to amend section 4 of the Central Excise Act relating to valuation of excisable goods for purposes of charging duty of excise.

Sub-Clause (a) seeks to amend sub-section (1) of section 4 so as to provide that the price-cum-duty of the excisable goods shall be deemed to include the duty payable in relation to such goods.

Sub-clause (b) (i) seeks to amend sub-section (3) of section 4 so as to provide that the place of removal shall also include a depot, premises of consignment agent or any other place or premises from which the excisable goods are to be sold after clearance from the factory.

Sub-clause (b) (ii) seeks to provide that the time of removal in respect of goods cleared under sub-clause (iii) of clause (c) of sub-section (3) of said section 4 shall be deemed to be the time at which goods are cleared from the factory.

Clause 129 seeks to substitute sub-section (4) of section 4A of the Central Excise Act so as to provide that where any goods specified under sub-section (1) of the said section are removed by a manufacturer without a correct declaration of the retail sale price or where the manufacturer tampers with, obliterates or alters the retail sale price declared after removal of the goods from the place of manufacture, such goods are liable to confiscation and the Central Government may ascertain the retail sale price of such goods in a manner as may be prescribed. Where the retail sale price declared is altered subsequent to its clearance from the place of manufacture so as to increase the retail sale price, such altered retail sale price shall be deemed to be the retail sale price for the purposes of the said section. The definition of retail sale price shall be construed to exclude any taxes local or otherwise, if the provisions of the Act, rules, or any other law referred to in sub-section (1) of said section 4A require

declaration of the retail sale price excluding such taxes, on the package containing the excisable goods.

Clause 130 seeks to substitute sub-section (2) of section 5A of the Central Excise Act so as to empower the Central Government to exempt goods from payment of excise duty, under circumstances of an exceptional nature.

Clause 131 seeks to amend section 11A of the Central Excise Act relating to recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded.

Sub-clause (a) seeks to amend sub-section (1) of said section 11A so as to omit the requirement for prior approval of a notice of demand, by the Commissioner of Central Excise or Chief Commissioner of Central Excise, as the case may be.

Sub-clause (b) seeks to amend sub-section (2B) of said section 11A so as to provide that no notice under sub-section (1) of that section shall be served where the person chargeable with the duty of excise pays such duty as is prescribed in the said sub-section (2B), on his own ascertainment or on the basis of duty ascertained by a Central Excise Officer.

Clause 132 seeks to insert new section 11DD in the Central Excise Act relating to interest on the amounts collected in excess of the duty as provided in the Central Excise Act. This provision lays down that interest at not less than ten per cent. and not exceeding thirty-six per cent. shall be recoverable on the amounts collected in excess of duty payable, as is determined under sub-section (3) of said section 11D of the said Act.

Clause 133 seeks to substitute section 13 of the Central Excise Act so as to provide that the power to arrest any person can be exercised by Central Excise Officers not below the rank of Inspector of Central Excise, only with the prior approval of the Commissioner.

Clause 134 seeks to amend section 23A of the Central Excise Act relating to advance rulings.

Sub-clause (a) seeks to substitute clause (c) of said section 23A so as to allow the wholly owned subsidiary Indian company, of which the holding company is a foreign company, which is proposing to undertake any business activity in India, also to make application for advance rulings.

Sub-clause (b) seeks to amend clause (f) of said section 23A so as to define the terms "non-resident," "Indian company" and "foreign company" in terms of the definitions given in the Income-tax Act, 1961.

Clause 135 seeks to amend sub-section (2) of section 23C of the Central Excise Act so as to provide that advance rulings may also be sought in respect of applicability of all notifications issued under the Central Excise Act, the Central Excise Tariff Act and any duty chargeable under any other law for the time being in force in the same manner as in respect of matters already specified and also in respect of admissibility of credit of duty.

Clause 136 seeks to substitute section 35G of the Central Excise Act so as to provide that all appeals against orders of the Appellate Tribunal (on matters other than relating to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment) shall be filed with the High Court and the High Court will formulate the question of law after satisfying itself that substantial question of law is involved. The new provision shall apply to the orders of the Appellate Tribunal passed, on or after the 1st day of July, 2003. An appeal under the said section shall be filed within one hundred and eighty days of the receipt of the order appealed against by the Commissioner of Central Excise or the other party. The appeal by the other party shall be accompanied by a fee of two hundred rupees.

Clause 137 seeks to amend sub-section (1) of section 35H of the Central Excise Act so as to make consequential changes as per the amendment of section 35G of the said Act.

Clause 138 seeks to amend section 35K of the Central Excise Act to insert therein sub-section (1A) to provide that effect shall be given of a judgement of the High Court in an appeal by the concerned Central Excise Officer and also certain consequential amendment has been made in sub-section (2) of the said section.

Clause 139 seeks to amend section 35L of the Central Excise Act which relates to the appeal in Supreme Court. This amendment is a consequential amendment to the appellate jurisdiction provided to the High Court.

Clause 140 seeks to insert a Schedule, namely, the Third Schedule to the Central Excise Act. Sub-clause (iii) of clause (f) of section 2 of the Central Excise Act specifies certain processes carried out in respect of the goods specified in the proposed Third Schedule as amounting to "manufacture".

Clause 141 seeks to amend sub-rules (5) and (8) of rule 57R of Central Excise Rules retrospectively, *i.e.* with effect from the dates and in the manner as specified in the Sixth Schedule so as to omit the references to a manufacturer claiming deduction of the credit on capital goods as revenue expenditure under the Income-tax Act, 1961 and to lay down that credit of specified duty paid in respect of that part of the value of capital goods representing the duty paid on such capital goods as depreciation under the said Income-tax Act.

Clause 142 seeks to amend rule 57F of Central Excise Rules retrospectively with effect from the 8th day of July, 1999, and rule 57AB of the said rules retrospectively with effect from the 1st day of April, 2000, so as to provide that the credit of duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under notification numbers 32/99-Central Excise and 33/99-Central Excise both dated the 8th July, 1999 [G.S.R. 508(E) and G.S.R. 509(E) both dated the 8th July 1999], shall be utilize only for payment of duty on final products cleared under the said notifications.

Clause 143 seeks to amend rule 3 of CENVAT Credit Rules, 2001 retrospectively with effect from the 1st day of July, 2001, so as to provide that the credit of duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under notification numbers 32/99-Central Excise and 33/99-Central Excise both dated the 8th July, 1999 [G.S.R. 508(E) and G.S.R. 509(E) both dated the 8th July, 1999] shall be utilised only for payment of duty on final products cleared under the said notifications.

Clause 144 seeks to amend rule 3 of CENVAT Credit Rules, 2002 with retrospective effect *i.e.* on and from the 1st day of March, 2002, *vide* notification number G.S.R. 835 (E), dated the 23rd December, 2002 so as to provide that the credit of duty paid on the inputs used in the manufacture of final products cleared after availing of the exemption under notification numbers 32/99-Central Excise and 33/99-Central Excise both dated the 8th July, 1999, shall be utilised only for payment of duty on final products cleared under the said notifications.

Clause 145 seeks to retrospectively amend notification numbers G.S.R. 508(E) and G.S.R. 509(E) both dated the 8th July, 1999 on and from the 8th day of July, 1999 to the 22nd day of December, 2002 so as to provide that the amount of refund allowable under the said notifications shall not exceed the amount of duty paid less the amount of CENVAT Credit availed of, in respect of the duty paid on the inputs used in or in relation to the manufacture of goods cleared under the respective notifications.

Clause 146 seeks to retrospectively amend notification numbers 32/99-Central Excise and 33/99-Central Excise both dated the 8th July, 1999 [G.S.R. 508(E) and G.S.R. 509(E) both dated the 8th July, 1999], in the manner specified in the Ninth Schedule, so as to—

(a) exclude cigarettes falling under Chapter 24 and pan masala containing tobacco falling under heading 21.06 or 24.04 from the scope of the said exemption notifications with effect from the 8th of July, 1999;

(b) exclude all goods falling under chapter 24 from the scope of the said exemption notifications with effect from the 1st day of March, 2001; and

(c) to exclude four oil refineries in North-East from the scope of the said exemption notifications with effect from 12th day of February, 2002.

Central Excise Tarrif

Clause 147 seeks to amend the First and Second Schedules to the Central Excise Tariff Act.

Sub-clause (a) seeks to amend the First Schedule to the Central Excise Tariff Act so as to—

(a) increase the excise duty in respect of articles falling under Chapters, headings and sub-headings Nos., namely:—

"Chapter 15 (heading Nos. 15.02, 15.03 and 15.04 and sub-heading No. 1508.90), 25 (sub-heading Nos. 2502.10 and 2502.29) 59 (sub-heading No. 5906.91)";

(b) change the mode of levy of excise duty from specific to *ad valorem* in respect of articles falling under Chapter and sub-headings No., namely:—

"Chapter 36 (sub-heading No. 3605.90)";

(c) change the mode of levy of excise duty from *ad valorem* to *ad valorem*-cum-specific in respect of articles falling under Chapter and sub-headings Nos., namely:—

"Chapter 87 (sub-heading Nos. 8706.29, 8706.42 and 8706.49)";

(d) amend the Chapter Notes and the tariff descriptions so as to:—

(i) clarify that certain processes amount to manufacture in Chapter Note 3 to Chapter 11;

(ii) clarify that certain processes amount to manufacture in Chapter Note 4 in Chapter 15;

(iii) clarify that certain processes amount to manufacture in Chapter Note 5 in Chapter 73;

(iv) substitute sub-heading No. 2710.90.

Sub-clause (b) seeks to amend the said Second Schedule so as to decrease the excise duty in respect of articles falling under Chapters, headings and sub-headings Nos., namely:—

"Chapter 21 (sub-heading No. 2018.10) Chapter 22 (sub-heading Nos. 2201.20 and 2202.20) Chapter 40 (sub-heading Nos. 4011.90, 4012.11, 4012.19, 4012.90 and 4013.90), Chapter 54 (sub-heading Nos. 5402.20, 5402.32, 5402.42, 5402.43, 5402.52 and 5402.62), Chapter 84 (heading No. 84.15), Chapter 87 (sub-heading Nos. 8702.10, 8703.90, 8704.90, 8706.21, 8706.39 and 8706.49)".

Clause 148 seeks to amend the Second Schedule to the Additional Duties of Excise (Goods of Special Importance) Act so as to enable the States to levy sales tax on sugar, textiles and tobacco products at a rate not exceeding four per cent. without being denied the share of the total tax revenue. The amendment will come into effect from a date to be notified.

Clause 149 seeks to levy additional duty of excise on tea and tea waste at the rate of one rupee ker kg. and also to provide that the proceeds will be for the purposes of the union.

Service tax

Clause 150 seeks to amend retrospectively section 68 and to insert new section 71A in the Finance Act, 1994 during the period beginning from 16th day of July, 1997 and ending with 16th day of October, 1998 to validate the collection of service tax from the customer in case of services provided by goods transport operators and clearing and forwarding agents.

Clause 151 seeks to amend Chapter V of the Finance Act, 1994 relating to service tax.

(a) sub-clause (a) seeks to substitute section 65 of the Finance Act, 1994 and also to insert a new section 65A relating to classification of taxable services. In addition to the services in respect of which service tax is leviable, it is proposed to levy service tax in respect of the following services, namely,—

(i) a commercial concern in relation to business auxiliary services;

(ii) a commercial coaching or training centre in relation to commercial coaching or training;

(iii) a commissioning or installation agency in relation to commissioning or installation;

(iv) a franchisor in relation to franchise;

(v) by an internet cafe in relation to access of internet;

(vi) any person in relation to maintenance or repair;

(vii) a technical testing and analysis agency in relation to technical testing and analysis and technical inspection and certification agency in relation to technical inspection and certification;

(viii) an authorized service station, in relation to any service or repair of any mexi cab;

(ix) a foreign exchange (forex) broker other than a non-banking financial company including financial institution and a body corporate, in relation to banking and other financial services;

(x) minor port or any person authorized by the minor port in relation to goods or vessels in addition to the services;

(b) sub-clause (b) seeks to substitute section 66 so as to raise the rate of service tax from five per cent to eight per cent in respect of services already liable to pay service tax. The said clause also lays down that with effect from such date as the Central Government may, by notification in the Official Gazette, appoint, service tax at the rate of eight per cent of the value of the taxable services shall be levied and collected on the new services referred to in sub-clause (a) above;

(c) sub-clause (c) seeks to amend section 67 of the said Act so as to clarify that the cost of parts or other materials, if any, sold to the customer during the course of providing maintenance or repair service or the cost of parts or other materials, if any, sold to the customer during the course of providing commissioning or installation services shall not be included while computing the service tax payable;

(d) sub-clause (d) seeks to amend section 73 of the said Act so as to provide for *suo motu* dropping of proceeding and non-issuance of show cause notice in a case where the amount of service tax short-paid or not paid, is paid voluntarily along with interest thereon by the assessee within one year, except cases involving mis-statement or suppression of facts;

(e) sub-clause (e) seeks to amend section 78 of the said Act. The said section deals with penalty for suppressing value of taxable service. If the service tax determined under sub-section (1) of section 73 and the interest payable thereon under section 75 are paid within thirty days of the communication of order of the Assistant Commissioner of Central Excise, or as the case may be, the Deputy Commissioner of Central Excise determining the service tax the amount of penalty will be reduced to twenty five per cent of the service tax, if paid within thirty days;

(f) sub-clause (f) seeks to amend section 83 of the said Act to make applicable sections 11C and 12 of the Central Excise Act, 1944 in relation to service tax;

(g) sub-clause (g) seeks to amend section 85 of the said Act to enable an appeal to be filed to Commissioner (Appeals) against order of the Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise, as the case may be, for denying any refund of service tax;

(h) sub-clause (h) seeks to amend section 94 of the said Act so as to empower the Central Government to make rules to provide the credit of service tax paid on the services consumed and duties paid or deemed to have been paid on goods in relation to a taxable service;

(i) sub-clause (i) seeks to amend section 95 of the said Act so as to empower the Central Government to issue orders to clarify the scope of taxable service and value thereof, etc., in respect of taxable services proposed to be incorporated by the Finance Act, 2003, within two years from the date on which the levy of service tax on the taxable service comes into force;

(j) sub-clause (j) seeks to insert a new Chapter VA in the said Act to provide for advance rulings in respect of a question of law or fact regarding the liability to pay service tax in relation to a service proposed to be provided, in the manner specified. The Authority for Advance Rulings constituted under section 25F of the Customs Act shall be the said authority in respect of such matters.

Clause 152 seeks to amend notification No. 43/97 SERVICE TAX, dated the 5th November, 1997 [G.S.R. 639(E), dated the 5th November, 1997] and to give it retrospective effect from the 16th November, 1997 so as to exempt service tax on goods transport operator services provided to small-scale industries registered with the State Government and a private limited company which is also a solely and exclusively trading company.

Central Sales Tax

Clause 153 seeks to amend section 6 of the Central Sales Tax Act (hereinafter referred to as the Central Sales Tax Act), so as to empower the Central Government to exempt, by notification in the Official Gazette and subject to such conditions as may be imposed by it, any official or personnel of any foreign diplomatic mission or consulates in India, or the United Nations or any other similar international body, entitled to privileges under any Convention or any law for the time being in force from payment of tax payable on purchase of goods for themselves or for the purposes of those missions, United Nations, or other international bodies.

Clause 154 seeks to amend section 8 of the Central Sales Tax Act, so as to empower the Central Government to reduce rate of tax with effect from a date to be notified, from four per cent. to two per cent.

Clause 155 seeks to amend section 20 of the Central Sales Tax Act, to enable a dealer to file appeal to the Central Authority against any order of the assessing authority only where an inter-State dispute is involved. This should be done within forty-five days from the date of service of the order which may be extended to sixty days if the appellant was prevented by sufficient cause from filing the appeal.

Clause 156 seeks to amend section 21 of the Central Sales Tax Act to enable the Authority also to forward the copy of appeal to the concerned State Government and to call upon it to furnish relevant records. The records furnished by the State Government concerned shall as soon as possible be returned to it.

Clause 157 seeks to amend section 23 of the Central Sales Tax Act to empower the Authority to regulate its procedure in respect of the stay of recovery of any demand also.

Miscellaneous

Clause 158 seeks to insert section 46B and 46C into the Finance Act, 1989 so as to make provision for penalty on the carrier and the offences by companies relating thereto, who fails, to pay, to the credit of Central Government, the inland air travel tax collected from a passenger.

Clause 159 seeks to amend the Second Schedule to the Finance (No. 2) Act, 1998 so as to increase the additional duty of excise or additional duties of customs, as the case may be, on motor spirit commonly known as petrol from one rupee per litre to one rupee and fifty paise per litre.

Clause 160 seeks to amend the Second Schedule to the Finance Act, 1999 so as to increase the additional duty of excise or additional duties of customs, as the case may be, on high speed diesel oil from one rupee per litre to one rupee and fifty paise per litre.

Clause 161 seeks to amend the Seventh Schedule to the Finance Act, 2001, so as to levy National Calamity Contingent Duty, on goods specified in the Thirteenth Schedule to this Bill at the rates mentioned therein. The said amendment shall be effective only up to and inclusive of 29th day of February, 2004.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill seeks to amend section 33AB of the Income-tax Act relating to tea development account.

The proposed amendment seeks to allow deduction to an assessee carrying on business of growing and manufacturing coffee in India. The deduction under sub-section (*1*) of section 33AB shall not be admissible unless the accounts of such business of the assessee for the previous year relevant to the assessment year for which the deduction is claimed have been audited by an accountant as defined in the *Explanation* below sub-section (*2*) of section 288 and the assessee furnishes, along with his return of income, the audit report in the prescribed form duly signed and verified by such accountant. However, in a case where the assessee is required by or under any other law to get his accounts audited, it shall be sufficient compliance with the povisions of the said sub-section if such assessee gets the accounts of such business audited under such law and furnishes the audit report as required under such other law and a further report in the form prescribed under this sub-section.

It is also proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form in which such audit report shall be signed and verified by the accountant and furnished along with the return of income.

Clause 30 of the Bill seeks to amend section 72A of the Income-tax Act relating to carry forward and set off of accumulated loss and unabsorbed depreciation allowance in amalgamation or demerger. The proposed amendment seeks to substitute sub-section (2) of the said section, which *inter alia,* provides that the accumulated loss shall not be set-off or carried forward and the unabsorbed depreciation shall not be allowed in the assessment of the amalgamated company unless it fulfils such other conditions as may be prescribed.

It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, such other conditions to ensure the revival of the business of the amalgamating company or to ensure that the amalgamation is for genuine business purpose. The power to prescribe conditions is on the lines of the existing provision contained in the said section.

Clause 31 of the Bill seeks to substitute section 80DD of the Income-tax Act relating to deduction in respect of maintenance including medical treatment of handicapped dependant.

The proposed new section provides for deduction in respect of maintenance including medical treatment of a dependant, being a person with disability. The assessee, claiming a deduction under this section, is required to fumish a copy of the certificate issued by the medical authority in the form and manner, as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed.

The proposed new section further provides that no deduction shall be allowed unless a new certificate, in case of reassessment of disability, is obtained from the medical authority in the form and manner, as may be specified by the rules made by the Central Board of Direct Taxes and a copy thereof is furnished with the return of income.

It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such certificates shall be furnished for the purposes of the said section 80DD.

Clause 32 of the Bill seeks to substitute section 80DDB of the Income-tax Act relating to deduction in respect of medical treatment, etc.

The proposed new section confers power upon the Central Board of Direct Taxes to specify the disease or ailment in respect of which the deduction for the expenditure actually incurred thereon shall be allowed under the said section.

It has further been proposed that no such deduction shall be allowed unless the assessee furnishes with the retun of income, a certificate in such form, as may be prescribed,

from a neurologist, an oncologist, a urologist, a haematologist, an immunologist or such other specialist, as may be prescribed, working in a Government hospital.

It is, therefore, proposed to confer power upon the Central Board of Direct Taxes to specify such form in which the certificate, and also such other specialist from whom such certificate shall be furnished along with the return of income for the purposes of availing of deduction under the said section 80DDB.

Clause 35 seeks to insert a new section 80-IC in the Income-tax Act relating to special provisions in respect of certain undertakings or enterprises in certain special category States.

The poposed new section provides that where the gross total income of an assessee includes any profits and gains derived by an undertaking or an enterprise from any business referred to in sub-section (2) thereof, a deduction shall be allowed in computing the total income of the assessee as specified in sub-section (3).

It has been proposed to allow deduction in respect of certain undertakings or enterprises in any Export Processing Zone or Integrated Infrastructure Development Centre or Industrial Growth Centre or Industrial Estate or Industrial Park or Software Technology Park or Industrial Area or Theme Park, as notified by the Central Board of Direct Taxes in accordance with the scheme framed and notified by the Central Government in this regard.

It is, therefore, proposed to confer power upon the Central Board of Direct Taxes to specify, by notification in the Official Gazette, for the purpose of the proposed section, any area as "Industrial Area", "Industrial Estate", "Industrial Growth Centre", "Industrial Park", "Integrated Infrastructure Development Centre", "Software Technology Park" or "Theme Park", in accordance with the scheme framed and notified by the Central Government in this regard.

It is also proposed to confer power upon the Central Government to notify said scheme for the purposes of the new section 80-IC.

Clause 38 of the Bill seeks to insert a new section 80QQB in the Income-tax Act relating to deduction in respect of royalty income, etc., of authors of certain books other than text books.

The proposed new section provides that deduction under the section shall not be allowed to the assessee unless he furnishes a certificate setting forth such particulars as may be prescribed duly verified by any person responsible for making such payment to the assessee, as referred to in sub-section (1), along with the return of income. It is, therefore, proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such certificate shall be furnished.

It has also been proposed that no deduction under this section shall be allowed in respect of any income earned from any source outside India, unless the assessee furnishes a certificate in the prescribed form from the prescribed authority along with the return of income. It is, therefore, proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such certificate shall be furnished and also the authority from whom such certificate shall be obtained.

Clause 39 of the Bill seeks to insert a new section 80RRB in the Income-tax Act relating to deduction in respect of royalty on patents.

The proposed new sub-section (2) provides that no deduction under this section shall be allowed unless the assessee furnishes a certificate in the form, duly signed by the authority. along with the return of income setting forth such particulars as may be prescribed. It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such certificate shall be furnished.

The proposed new sub-section (3) provides that no deduction under the section shall be allowed in respect of any income earned from any source outside India, unless the

assessee furnishes a certificate in the form, from the authority, as may be prescribed, along with the return of income.

It is also proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such certificate shall be furnished.

Clause 40 of the Bill seeks to substitute section 80U of the Income-tax Act relating to deduction in the case of permanent physical disability (including blindness).

The proposed new section provides that every individual, who is a person with disability and claiming a deduction under this section shall be required to furnish a copy of the certificate issued by the medical authority in the form and manner as may be prescribed, along with the return of income under section 139, in respect of the assessment year for which the deduction is claimed.

It has also been proposed to provide that no deduction shall be allowed unless a new certificate, in case of reassessment of disability is obtained from the medical authority in the form and manner, as may be prescribed, and a copy thereof is furnished with the return of income.

it is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such certificate shall be furnished.

Clause 43 of the Bill seeks to amend section 90 of the Income-tax Act relating to agreement with foreign countries.

The proposed amendment confers power upon the Central Government to assign by notification, the meaning to any term used in the agreement entered into under section 90 of the Income-tax Act if such term is neither defined in the Act nor in the agreement and such meaning is not in consistent with the Act or the agreement.

Clause 56 of the Bill seeks to amend section 139 of the Income-tax Act relating to return of income.

The proposed new sub-section (1B) of the said section gives an option to any person who is required to furnish a return of income under sub-section (1), to furnish, on or before the due date, a return of his income for any previous year, in accordance with such scheme as may be specified, in such form (including on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media) and in the manner specified in the scheme, and in such case, the return of income furnished under such scheme shall be deemed to be a return furnished under sub-section (1), and the provisions of this Act shall apply accordingly.

It is proposed to confer power upon the Central Board of Direct Taxes to specify the said scheme by notification in the Official Gazette.

Clause 59 seeks to insert new section 153A, 153B and 153C in the Income-tax Act relating, *inter alia*, to assessment in case of search or requisition.

The proposed new section 153A provides that the Assessing Officer shall issue notice to the person referred to in that section, requiring him to furnish within such period as may be specified in the notice, the return of income in respect of each assessment year, falling within six assessment years referred to in that section.

It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which the return shall be furnished.

Clause 78 of the Bill seeks to amend section 197A of the Income-tax Act providing that no deduction shall be made in certain cases specified in that section.

The proposed new sub-section (1C) provides that no deduction of tax shall be made under any of the sections referred to in the said sub-section in the case of an individual resident in India, who is of the age of sixty-five years or more at any time during the previous year and is entitled to a deduction from the amount of income-tax on his total income referred

to in section 88B, if such individual furnishes to the person responsible for paying any income of the nature referred to in section 193 or section 194 or section 194A or section 194EE or section 194K, as the case may be, a declaration in writing in duplicate in the prescribed form and verified in the prescribed manner to the effect that the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be *nil*. It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the form and manner in which such declaration shall be furnished by the said individual and also the manner in which he shall verify the said form.

Clause 79 of the Bill seeks to amend section 206 of the Income-tax Act relating to persons deducting tax to furnish prescribed returns.

The proposed amendment, *inter alia*, provides that the person responsible for deducting tax under the provisions of Chapter XVII of the Income-tax Act (other than the principal officer in the case of every company), may, at his option, deliver or cause to be delivered such return to the prescribed income-tax authority in accordance with such scheme as may be specified, on a floppy, diskette, magnetic cartridge tape, CD-ROM or any other computer readable media and in the manner as may be specified in that scheme. However, the principal officer in the case of every company shall furnish such return in accordance with such scheme.

It is proposed to confer power upon the Central Board of Direct Taxes to specify, by notification in the Official Gazette, the scheme and the conditions in accordance with which and the manner in which the return shall be filed by such person and the principal officer.

Clause 81 of the Bill seeks to amend section 230 of the Income-tax Act relating to tax clearance certificate.

The proposed new sub-section (1) of the said section requires a person who is not domiciled in India and who has come to India in connection with business, profession or employment and who has income derived from any source in India to furnish to such authority as may be prescribed, an undertaking in the prescribed form, to the effect that the tax payable by such person shall be paid by the employer or the person from whom income is received.

The proposed new sub-section (1A) of the aforesaid section also seeks to provide that a person who is domiciled in India shall be required to furnish details regarding the permanent account number, the purpose of his visit and estimated period of stay outside India, in the prescribed form to the income-tax authority or such other authority, as may be prescribed.

It is proposed to confer power upon the Central Government to specify, by notification in the Official Gazette, the exceptions for the purposes of the proposed sub-sections.

It is further proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, the income-tax authority to whom undertaking, as specified, shall be furnished by a person not domiciled in India.

It is also proposed to confer the power upon the Central Board of Direct Taxes to specify, by rules, the form as also the income-tax authority and such other authority to whom the form is to be furnished in case of a person domiciled in India.

It is also proposed to confer power on the Central Board of Direct Taxes to specify, by rules, the form and the authority to whom certificate shall be furnished by the persons who have not been allotted permanent account number or whose income is not chargeable to income-tax or who are not required to obtain permanent account number under the Income-tax Act.

Clause 91 of the Bill seeks to insert a new section 285BA in the Income-tax Act relating to annual information return.

The proposed new section requires every assessee, who enters into any financial transaction, as may be prescribed, with any other person to furnish, within the prescribed

time, an annual information return in the form and manner, as may be prescribed, in respect of such financial transaction entered into by him duirng any previous year.

It is proposed to confer power upon the Central Board of Direct Taxes to specify, by rules, such financial transaction, the form and manner and also the time in which such return shall be furnished by the assessee.

Clause 105 of the Bill seeks to substitute sub-secion (1) of section 30 of the Customs Act, 1962. This clause, *inter alia,* proposes to empower the Central Government, to specify, by notification in the Official Gazette, the persons who shall be required to deliver to the proper officer import manifest or import report. This clause also empowers the Central Government to make rules relating to form of import manifest and import report under sub-section (1) of section 30 of the said Act.

Clause 129 of the Bill seeks to substitute sub-section (4) of section 4A of the Central Excise Act, 1944. The said sub-section (4), *Inter alia,* proposes to empower the Central Government to make rules laying down the manner of ascertaining retail sale price of excisable goods specified under sub-section (1) of that section.

Clause 132 of the Bill seeks to insert a new section 11DD in the Central Excise Act, 1944. The said new section, *inter alia,* proposes to empower the Central Government to fix, by notification in the Official Gazette, the rate of interest which shall not be below ten per cent. and not exceeding thirty-six per cent. per annum, where an amount has been collected in excess of the duty assessed or determined and paid on any excisable goods under the said Act or the rules made thereunder from the buyer of such goods.

Clause 150 of the Bill seeks to modify certain provisions of Chapter V of the Finance Act, 1994 relating to service tax. Sub clause (c) of the said clause seeks to insert a new clause (cc) in sub-section (2) of section 94 of the said Act so as to empower the Central Government to make rules laying down the manner in which the person liable to pay service tax shall furnish the return to the Central Excise Officer under section 71A of the said Act.

Clause 151 of the Bill seeks to amend Chapter V of the Finance Act, 1994.

Sub-clause (b) of the said clause seeks to amend section 66 of the Finance Act, 1994 relating to charge of service tax. This sub-clause, *inter alia,* empowers the Central Government to make rules for laying down the manner in which service tax may be collected.

Sub-clause (h) empowers the Central Government to make rules for the purpose of the credit of service paid on the services consumed or duties paid or deemed to have been paid on goods used for providing a taxable service.

Sub-clause (i) of the said clause seeks to amend section 95 of the Finance Act, 1994 to insert sub-section (1A) therein so as to empower the Central Government to issue order, for removal of any difficulty which may arise in giving effect to any taxable services brought within the purview of Chapter V of the said Act by the proposed legislation. The proviso to the said sub-section (1A) seeks to provide that every order published under that sub-section shall be laid before each House of Parliament.

Sub-clause (j) of the said clause seeks to insert a new Chapter VA in the Finance Act, 1994 so as to empower the authority for Advance Rulings constituted under section 28F of the Customs Act, 1962 also to deal with the matters relating to advance rulings in respect of service tax. This sub-clause, *inter alia,* seeks to insert section 96-I in the Finance Act, 1994 which empowers the Central Government to make rules relating to the form and manner of making applications under sub-section (1) of section 96C; the manner of certifying a copy of the advance ruling pronounced by the Authority under sub-section (7) of section 96D and any other matter which is required to be, or may be, prescribed.

Every rule made under Chapter VA shall be laid before both the Houses of Parliament.

The matters in respect of which notifications may be issued or rules may be made in accordance with the provisions of the Bill are matters of procedure or detail and it is not practicable to provide for them in the Bill itself.

The delegation of legislative power is, therefore, of a normal character.

G. C. MALHOTRA
Secretary-General.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI 2005.

MGIPMRND—7981GI—11.04.2005.